Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 394

DATED 22 January 1897

[Despatch Abstract.]

Requesting that H.E. the Secy of State
be instructed his Lordship advises
to withdraw the appeal to the Privy
Council preferred by the Rajah
of Pudukkottai on behalf of the Respdt
who is a ward of the Court of
Wards.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
1893 26-49							

Revenue (1897) Department.

CURRENT No.

From The Secretary to the Court of Wards

Order

No. 1 Pres.

Dated 5th January 1897.

Received 15th

Registered 15th

Enclosures 5

Spare copies

SUBJECT.

Requesting that arrangements may be made for the appearance of the Chiti-Kada Privy Council appeal counter of the Court of Wards.

BACK PAPERS.

G.O.	No.	Department.	Date.
P 25-9-77	No. 2930.		
Cir. 366	(97		

FURTHER PAPERS.

G.O.	No.	Department.	Date.
C	310	/98	
=	1823	Mis	
	26-4-98		

COURT OF WARDS, No. 1, PRESS, 5TH JANUARY 1897.

PROCEEDINGS OF THE COURT OF WARDS.

READ—letter from KENWORTHY BROWN, Esq., Barrister-at-law, High Court, Madras, dated 15th December 1896.

ABSTRACT.—Forwarding his memorandum on the Chidikada Privy Council appeal.

RESOLUTION—No. 1, Press, dated 5th January 1897.

The Court resolves to submit the undermentioned papers to Government and to request that arrangements may be made for the opposition of the appeal in question on behalf of the Chidikada proprietrix, who was committed to the care of the Court under G.O., No. 2930, Revenue, dated 25th September 1877:—

Printed transcript of records ... ... 6 copies.
Mr. Kenworthy Brown's memorandum ... ... 6 „

(True Extract.)

Secretary.

To the Secretary to Government, Revenue Department, with enclosures.
„ the Collector of Vizagapatam, with two copies of the "memorandum."

× Note
5 copies of the transcript
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≠ will follow.

REVENUE DEPARTMENT.

1897.

Court of Wards,

MADRAS.

Printed January th, 1897.

Proceedings, No. 1, *Press*, 5*th Jan.* 1897.

In the Privy Council.

ON APPEAL FROM THE HIGH COURT OF JUDICATURE AT MADRAS.

BETWEEN

SRI RAJAH VENKATA SVETA CHALAPATI RANGA RAO BAHADUR GARU, RAJAH OF BOBBILI ... ... *Appellant (Plaintiff.)*

AND

SRI INUGANTI BHAVAYYAMMI GARU, a ward under the Court of Wards represented by their Agent the Collector of Vizagapatam ... ... *Respondent (Defendant.)*

RECORD OF PROCEEDINGS.

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Deputy Registrar.

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Serial No.	DESCRIPTION OF DOCUMENT.	Date.
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HIGH COURT OF JUDICATURE
AT MADRAS,
1st August 1896.

Deputy Registrar,
Appellate Side.

PRINTED BY GEAVES, COOKSON AND CO., SCOTTISH PRESS, MADRAS.

In the Privy Council.

IN APPEAL FROM THE HIGH COURT OF JUDICATURE AT MADRAS.

BETWEEN

SRI RAJAH VENKATA SVETA CHALAPATI RANGA RAO BAHADUR GARU, Rajah of Bobbili ... ... *Appellant.*

AND

SRI INUGANTI BHAVAYYAMMI GARU, a ward under the Court of Wards, represented by their Agent, the Collector of Vizagapatam ... ... *Respondent.*

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Regular Appeal No. 58 of 1893.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Appellant.*

versus

Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards, represented by their Agent, the Collector of Vizagapatam ... *Respondent.*

IN THE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 of 1890.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Plaintiff.*

versus

Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards, represented by their Agent, the Collector of Vizagapatam ... *Defendant.*

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 1. Plaint with Schedule, filed on the 12th December 1890.

RECORD OF PROCEEDINGS.

PART I.

IN THE DISTRICT COURT OF VIZAGAPATAM.

No. 1.

PLAINT.

IN THE HONORABLE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

1. Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, son of Sri Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur Garu; age 28 years, and Rajah of Bobbili Samstanam, &c., residing at Bobbili ... ... *Plaintiff.*

versus

1. Sri Inuganti Bhavayyammi Garu, widow of Sri Inuganti Sitaramasvami, Garu; age 51 years, and a ward under the Court of Wards, represented by
2. The Collector of Vizagapatam, Agent to the Court of Wards. } *Defendants.*

Plaint under Sections 48 and 50 of the Civil Procedure Code.

Plaintiff states as follows:—

1. On the 5th April 1848 Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu, the then Rajah of Bobbili, made, by an instrument in writing styled a *patta*, a gift of the estate called the proprietary estate of Chidikada Jagannadhapuram, situated within the Zamindari of Madgole and more fully described in the schedule hereto annexed, to Sri Inuganti Rajagopala Rayanin Garu, son of his paternal aunt and husband of his sister Sri Gopayyammi Garu; and on the application of the donor and the donee, the Collector of the District, on the 7th September 1848, registered Rajagopala Rayanin Garu as proprietor of the estate.

2. Rajagopala Rayanin Garu enjoyed the estate as absolute owner from the said 5th April 1848 to 4th April 1856, when he died, leaving him surviving his widow Gopayyammi Garu and daughter Lakshmi Chellayyammi Garu, a minor aged 8 years. Both these remained under the protection of Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu after the death of Rajagopala Rayanin Garu.

3. While things were in this state, Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu, with a view of getting back the estate and preventing its passing

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 1. Plaint with Schedule, filed on the 12th December 1890.—*continued.*

to the reversionary heirs of the said Rajagopala Rayanin Garu after the death of his widow and daughter, invented a story that, at the time of the gift, a private condition was entered into to the effect that the estate should revert to the donor if the donee died without *male* issue. As, however, the story would be discredited unless Gopayyammi Garu certified it, Rajah Sveta Chalapati Ranga Rao Bahadur Garu obtained, in collusion with his sister Gopayyammi Garu, her admission of the story, and within a week of Rajagopala Rayanin Garu's death, *i. e.*, on the 11th April 1856, induced her to write a letter to the Collector of the District, stating that such a condition as the one above stated, was entered into at the time of the gift; that, accordingly, the estate reverted to her brother; and that her brother might, therefore, be again registered as proprietor. Rajah Sveta Chalapati Ranga Rao Bahadur Garu himself also addressed a similar letter to the Collector. As Sri Rajah Sveta Chalapati Ranga Rao Bahadur's letter was supported by the letter of Gopayyammi Garu, the Collector of the District, on the 16th May 1856, re-transferred the estate to the name of Sri Rajah Sveta Chalapati Ranga Rao Bahadur. The condition mentioned in these letters that the estate should revert to the donor if the donee died without male issue, is altogether false and was fraudulently put forward.

4. From the said 11th April 1856 forward, Sri Rajah Sveta Chalapati Ranga Rao Bahadur enjoyed the estate. On the 19th February 1862, he transferred the estate to Sri Inuganti Sitaramasvami Garu, son of another sister of his, and issued a *patta* to him. The Collector of the District also registered the estate in the name of Sitaramasvami Garu. From the said 19th February 1862, Inuganti Sitaramasvami Garu enjoyed the estate up to September 1873, when he died without issue. His widow, the 1st Defendant, therefore, succeeded to the estate and she has since been enjoying the same through the Court of Wards, who, considering her incompetent, assumed management of the estate under Regulation V of 1804.

5. In 1860, Lakshmi Chellayyammi Garu was married to Sri Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur Garu, son of Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu. In 1862, Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu died, and his son Sri Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur Garu succeeded to the estate of Bobbili and enjoyed it till 18th May 1868 when he died without issue but authorized his wife Sri Rajah Lakshmi Chellayyammi Garu to adopt a son. On her husband's death, Sri Rajah Lakshmi Chellayyammi Garu succeeded to the estate of Bobbili and she adopted the Plaintiff in February 1871. The Plaintiff attained his majority and took charge of the estate of Bobbili in 1881, and has since been enjoying it.

6. Gopayyammi Garu, widow of Rajagopala Rayanin Garu, died on the 21st March 1872. After her death, Rajah Lakshmi Chellayyammi Garu, daughter of Rajagopala Rayanin Garu, was entitled under the Hindu Law to succeed to, and enjoy, the suit estate for her life. In consequence, however, of her close relationship to Inuganti Sitaramasvami Garu then in enjoyment of the estate as the second donee from Sri Rajah Sveta Chalapati Ranga Rao Bahadur, the said Rajah Lakshmi Chellayyammi Garu not only neglected to sue for the recovery of the estate from the said Inuganti Sitaramasvami Garu and on his death

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 1. Plaint with Schedule, filed on the 12th December 1890.—*continued.*

from his widow, the 1st Defendant, but she entered into an agreement with the 1st Defendant permitting her to continue in possession during her life-time and agreeing to take the estate on her (1st Defendant's) death and obtained an instrument in writing to that effect from the 1st Defendant, dated 6th February 1874. With a view to strengthen this agreement by a decree of a Court of Justice, Rajah Lakshmi Chellayyammi Garu brought Original Suit No. 2 of 1874 on your Honorable Court's file for obtaining a declaration of the validity of the said agreement. Entreated, however, to that effect by her close relation, the 1st Defendant, who, at that time, wanted to adopt a son, the Plaintiff's mother finally withdrew the suit, renouncing all her rights in the suit estate and allowing the 1st Defendant to deal with the same as she pleased. The Plaintiff's mother never afterwards took any steps to recover the estate from the Defendant.

7. Plaintiff's mother Rajah Lakshmi Chellayammi Garu died on 7th May 1887, on which date the Plaintiff's right of succession to the suit estate as daughter's son of Rajagopala Rayanin Garu, opened.

8. The transfer obtained by Sri Raja Sveta Chalapati Ranga Rao Bahadur Garu from Gopayyammi Garu; the transfer made by him to the 1st Defendant's husband; and the acts and omissions of the Plaintiff's adoptive mother in allowing and permitting the 1st Defendant to occupy the suit property, are fraudulent and illegal, and do not at all affect the Plaintiff's rights as reversionary heir entitled to succeed to the suit estate.

9. The Plaintiff's cause of action to sue for the property accrued on 7th May 1887, the date of his mother's death.

10. Plaintiff, therefore, prays for judgment directing the Defendants to deliver the suit estate to him with Rs. 38,985, being mesne profits for the years 1887-88 and 89 at Rupees 12,995-0-0 *per annum* with costs of suit and such further and other relief as to the Court may seem proper.

N. B.—The value of the suit for the purposes of Court fee is Rs. 38,985, being the amount of mesne profits under sub-section I, *plus* Rs. 1,29,950, being ten times the amount of Rs. 12,995, the net income of the suit estate under clause (*a*) to sub-section V of Section 7 of the Court Fees Act=Rs. 1,68,935.

Income of the suit estate from all sources ... ... Rs. 17,850

Deduct the *peishcush* payable to Government—permanently settled ... ... „ 4,855

Net income „ 12,995

19*th November* 1890.

(Signed) ———,
Pleader.

Sri V. S. Ranga Rao,
Sri Rajah of Bobbili.

(Here enter verification.)

Sri V. S. Ranga Rao,
Sri Rajah of Bobbili.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 1. Plaint with Schedule, filed on the 12th December 1890.—*continued.*

Schedule.

Civil Suit No. 39 of 1890 on the file of the District Court of Vizagapatam.

Schedule showing the boundaries, &c., of the Suit Chidikada Estate, filed on behalf of the Plaintiff, Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur, Rajah of Bobbili, &c.

Number.	Names of villages.	Hamlets.	Income.		Peishcush.		Boundaries. East.	South.	West.	North.	Attached to which Sub-Registration (District).
			Rs.	A. P.	Rs.	A. P.					Attached to the Chodavaram Sub-Registration District.
1	Chidikada.	...	5,801	4 0	1,750	0 0	Tank bund of Gitasagaram in Kothapili village attached to the Madugula Zamindari, lands in Thangadapilli village and hill in Virapurajupeta.	Public road in Kothapilli village, which lies between Jayitavaram village and Chidikada and which runs from east to west.	Lands in Sirijam and Manchalu villages attached to the Zamindari of Madugula.	Southern side of the hill attached to Guntugari and Singi gramam attached to the Zamindari of Madugula.	
2	Jagannadhapuram	...	7,160	2 0	3,150	0 0	The *jeroyati* lands in the village of Appalarajupuram attached to the said estate, the *jeroyati* lands belonging to the village of Vantaria and the *jeroyati* and Inam lands of Vijayaramarajugari peta attached to the Samsthanam of Vizianagaram.	Lands of Muknuthapuram Agraharam attached to the Zamindari of Madugula and lands and road of the village of Yarukuvada.	Yarukuvada channel, the big seri lands, Pappuchatti seri lands and Marpuladagada of Madugula village and the Inam lands of Madugula village.	The *jeroyati* and Inam lands in the village of Lingabhupalapatnam attached to the Zamindari of Madugula, the river channel whose water flows through Pappuchatti seri lands and cattle path in Lingabhupalapatnam.	

A. 58—2

Number.	Names of villages.	Hamlets.	Income.	Peishcush.	Boundaries. East.	South.	West.	North.	Attached to which Sub-Registration (District).
		1. Appalarajupuram.	1,810 3 0	... .	Lands in Lingabhupalapatnam attached to the Zamindari of Madugula, lands of the village of Singavaram, Boddaranai river and lands of Mangalapuram village.	Lands of Mangalapuram village attached to the Zamindari of Madugula, and the *jeroyati* lands of the villages of Vantarlapolem and Jagannadhapuram attached to the said estate.	Lands of the said Jagannadhapuram village.	The *jeroyati* and Inam lands of the village of Lingabhupalapatnam attached to the Zamindari of Madugula.	
		2. Thandisuravaram.	2,212 12 2	... .	Lands of the village of Varahapuram Agraharam attached to the Zamindari of Madugula and lands of the village of Lakshmipuram attached to the Samstanam of Vizianagaram.	Lakshmipuram lands attached to the Vizianagaram Samstanam, lands of the village of Vijayaramarajugari peta and the Agraharam lands of Kattuvari attached to the Zamindari of Madugula.	Kattuvari Agraharam lands attached to the Madugula Zamindari and the lands of the village Thibbapolem.	Lands of Thibbapolem, Vintanpolem and Thuni valsa villages attached to the Zamindari of Madugula.	Do.
		3. Vantarlapolem.	659 4 6	... .	Lands of the village of Mangalapuram attached to the Zamindari of Madugula and lands in the village of Vijayaramarajugari peta attached to the Samstanam of Vizianagaram.	River by name Thacheru.	Lands of the village of Jagannadhapuram and the river Thacheru.	Jagannadhapuram lands and lands of the village of Appalarajupuram.	Do.

19*th November* 1890.

(Signed) Kha. Sri Ranga Rao,

Sri Rajah of Bobbili.

(Here enter verification.)

(Signed) Kha. Sri Ranga Rao,

Sri Rajah of Bobbili.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 2. Defendants' written statement, dated 21st September 1891.

No. 2.

Defendants' written statement.

IN THE COURT OF THE DISTRICT JUDGE AT VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Plaintiff.*

versus

1. Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards, represented by
2. The Collector of Vizagapatam, Agent to the Court of Wards. } *Defendants.*

Written statement presented by the Defendants abovenamed under Section 110 of the Code of Civil Procedure.

1. The Defendants admit that the estate of Chidikada Jagannadhapuram, &c., was transferred to Rajah Inuganti Rajagopal Rao by Rajah Sveta Chalapati Ranga Rao Bahadur, the paternal grandfather of the Plaintiff, but deny that any *patta* in writing was granted to the former by the latter. They also assert that the transfer took place on the 15th August 1848 and not on the 5th April of that year.

2. The Defendants deny that Rajagopal Rao was absolute owner of the suit estates, and they also deny that so far as they are aware, the mother and maternal grandmother of the Plaintiff were under the protection of his paternal grandfather.

3. The Defendants admit the re-transfer of the suit estates to Rajah Sveta Chalapati Ranga Rao Bahadur in the Collector's register upon the death of Rajagopal Rao in 1856, but they entirely deny that such re-transfer was effected by fraud and collusion as alleged in paragraph 3 of the plaint and state that the representations then made to the Collector were true to the best of their knowledge and belief.

4. With regard to paragraph 4 of the plaint, the Defendants assert that the suit estate was conveyed to the late Sitaramasvami Garu not as a gift, but for good and valuable consideration: such consideration comprising the income derived by the said Sitaramasvami Garu from *mustazari* and other sources; profits annually obtained from the *mokhassa* village of Devadallu, the rented village of Mogilivalsa, his share in the villages of Komera, Purli, Vavilavalsa, Latchannavalsa, Thokalavalsa and Bellani; the ready money granted to him every year; and a Government promissory-note No. 2829 of the year 1842–1843 for Rs. 11,000. As Rajah Sveta Chalapati Ranga Rao Bahadur accepted the abovementioned property from Defendant's husband as a consideration for the suit estates and

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 2. Defendants' written statement, dated 21st September 1891.—*concluded.*

Defendant's husband consequently became a *bona fide* purchaser of the same, the Plaintiff is, therefore, estopped from bringing the suit.

5. The Plaintiff's suit is barred by the Law of Limitation, the possession of the estate having been adverse to his claim since April 1856.

6. The date of the cause of action mentioned in the plaint is incorrect.

7. The Defendants deny the allegations contained in paragraph 6 of the plaint, and assert that it was neither close relationship nor affection, but dread of prosecution for forgery, which led the Plaintiff's mother to withdraw Original Suit No. 2 of 1874 on the file of this Honourable Court, the said suit being based upon a document, the execution of which had been immediately impugned by Defendant as a forgery.

8. The Defendants deny the allegations of fraud and illegality contained in paragraph 8 of the plaint.

9. The Plaintiff is not entitled to mesne profits.

10. In the event of this Honourable Court passing a decree in Plaintiff's favor, it should also decree that Plaintiff should restore the property taken by Rajah Sveta Chalapati Ranga Rao Bahadur from 1st Defendant's husband in consideration of the suit estates, with damages.

11. The Defendants beg to represent that any allegations contained in the plaint which have not been traversed in this statement should not be considered as admitted or unquestioned by the Defendants.

12. The Defendants, therefore, pray that the Plaintiff's suit may be dismissed with costs.

(Signed) E. SIDNEY LAFFAN,
Collector and Agent to the Court of Wards.

P. Venkatakrishnamma Nayudu,
Counsel.

[Here enter verification.]

(Signed) E. SIDNEY LAFFAN,
Collector and Agent to the Court of Wards.

VIZAGAPATAM, 21*st September* 1891.

A. 58—3

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 3. Issues settled on 30th September 1891.

No. 3.

Issues settled by the District Judge.

IN THE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

1. Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Plaintiff.*

versus

1. Sri Inuganti Bhavayyammi Garu, minor, under the Court of Wards represented by their Agent
2. The Collector of Vizagapatam. } *Defendants.*

Issues settled on the 30th of September 1891.

1. Was the grant in 1848 by the then Zamindar of Bobbili in favour of Rajah Gopal Rao an unconditional grant which gave the grantee's widow and, after her, the grantee's daughter the legal (life) estate in the plaint immoveable property which estate was held by grantee's widow and daughter until the dates of their respective deaths?

2. Is the suit barred by limitation?

3. If Plaintiff be found entitled to recover the estate, under what conditions, if any, is he entitled to recover it?

4. Is Plaintiff estopped from bringing this suit?

Final hearing 19—2—92.

(Signed) H. R. FARMER,
District Judge.

No. 4. Defendants' Exhibit I. Deed of absolute sale, dated 9th April 1835.

No. 4.

Defendants' Exhibit I.

Absolute sale deed by Mandapaka Jagannayakulu to Rajah Sveta Chalapati Ranga Rayanin Garu.

Deed of absolute sale executed and given on Thursday, the 11th of Chaitra Sudha of the year Manmadha (9th April 1835) to M. R. Ry. Rajah Sveta Chalapati Ranga Rayanin Garu by Mandapaka Jagannayakulu, Proprietor of Chidikada attached to Pinamookaseema pargana included in the Madugula Zamindari.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 4. Defendants' Exhibit I. Deed of absolute sale, dated 9th April 1835.—*concluded.*

As the said proprietary village to which I have a right was sold to you absolutely for Rs. 16,162-10-2 (in words sixteen thousand one hundred and sixty-two rupees, ten annas and two pies) with all its appurtenances after freeing the same from disputes by the gnatis (cousins,) and as you have paid the said sale money in the Collector's Office of Vizagapatam towards the arrears of revenue which our Rajah Sri Krishnabhoopathi Devu Maharajulangaru had to pay to the Government in respect of the Madugula Zamindari, your name was caused to be entered in the register book and order for collecting the revenue of the said village was caused to be given to you by the Collector. You shall, therefore, have that as your support, pay to Government the settled annual revenue of Rs. 1,750 (rupees one thousand seven hundred and fifty), cultivate it extensively and enjoy the profits from the said village hereditarily. Either I or my heirs shall not at any time act in contravention of this sale deed. This deed of absolute sale is executed and given with my consent.

(Signed) Mandapaka Jagannayakulu.

Witnesses:—

(Signed) Thanthyala Joganna.
(„) Thelidavara Kanakayya.

Deed of absolute sale written by Chakradhara Patnayakuni Chakradharudu with the knowledge of these men.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by the Defendants' Counsel and filed on the 5th October 1892 as Exhibit I.

Admitted.

(Signed) H. R. FARMER,
District Judge.

No. 5. Defendants' Exhibit II. Deed of sale executed on 7th January 1835.

No. 5.

Defendants' Exhibit II.

Deed of sale to Rajah Sveta Chalapati Ranga Rayanin Garu by Rajah Krishnabhoopathi Devu Garu.

Deed of sale executed and given on 7th January 1835, corresponding to Wednesday, the 8th of Pushya Sudha of the year Jaya, to Sri Rajah Sveta Chalapati Ranga Rayanin Garu, Zamindar of Bobbili, by Sri Rajah Krishnabhoopathi Devu Garu, Zamindar of Madugula. As the Government have issued an order to the effect that the possession of my Zamindari should be given to me if I should pay the arrears of revenue due on my Madugula Zamindari which was put in auction sale as the revenue on it was not paid and as I thought that to retain the Zamindari was my most important business even by

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 5. Defendants' Exhibit II. Deed of sale executed on 7th January 1835.—*concluded.*

selling now some of the villages, it is, therefore, settled that I should sell to you for Rs. 23,837-5-10 (in words twenty-three thousand eight hundred and thirty-seven rupees, five annas and ten pies) the following two villages, namely Khasba Jagannadhapuram with its two hamlets, Vantarlapalem and Appalarajupuram—not the Jagannadhapuram included in the Muttah comprised of six villages, attached to my Madugula—and Thandisuravaram included in Pinamookaseema and situated at a distance of about 2 coss to the east of Madugula; that you should deposit the said sale money in the Collector's Office towards the arrears of revenue which I should pay to Government till the Collector of Vizagapatam gets an order from the Revenue Board sanctioning that the villages should be delivered possession to you along with the power given to you by the Collector for collecting revenue, after making a sub-division of the said two villages, after fixing the revenue and after the Collector himself transferring and registering the same without my interference, and that, till then, you should go on with the collection &c., of dast and cist of the said villages by means of the Khanigi Dheemut (order for collecting revenue) which I gave you. As I have sold to you absolutely the said two villages with their hamlets and the appurtenances thereof, you shall, therefore, pay the said sale money in the Collector's Office as stated above, cultivate the said two villages extensively, pay the revenue thereof to Government every year and fully enjoy the said villages hereditarily, conducting the management thereof. Neither I nor my heirs shall, at any time, act in contravention of this sale deed. This sale deed was executed and given with my consent.

(Signed) Sri Kru, (insignia of a fish).

Witnesses :—

Thanthyala Joganna Garu.

(Signed) Thanthyala Joganna, witness.

Thelidavara Kanakayya Garu.

(Signed) Thelidavara Kanakayya, witness.

The sale deed was written by Vissapragada Jogiraju with the knowledge of these men.

(Signed) M. A. ARBUTHNOT,
Ag. Collector.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit II.

Admitted.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 6. Defendants' Exhibit III. Copy of Extract from the Register of Estates, 7th September 1848.

No. 6.

Defendants' Exhibit III.

Copy of Extract from the Register of Estates in the Zillah of Vizagapatam in the Collector's Office.

JAGANNADHAPURAM THUNDEESURAVARAM OF MADGOLE.

This is to certify that the present holder Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili, has, on the 16th August 1848, transferred the above Estates in gift to Rajah Inugunti Rajagopal Rao, which are accordingly registered this 7th September 1848.

In the presence of T. Strinivasa Rao, Vakil to the former and.

G. Appalanarisimhulu, Vakil to the latter.

(Signed) P. B. SMOLLETT,
Agent to the Governor.

(True Extract).

(Signed) P. B. SMOLLETT,
Agent to the Governor.

Extract from the Register of Estates in the Zillah of Vizagapatam kept in the Collectors' Office.

Names and numbers of the Estate.	Jummah of new Estate.	Names of the proprietors of the new Estates.	Number of villages in each.	Names of the villages with their numerical arrangement.		Remarks.
No. 45 Chidikada of Madegole.	Rupees 1,750 or S. Pagodas 500.	Rajah Sveta Chalapati Ranga Rao Bahadur.	Ayen Village 1.	1.	Chidikada.	This is to certify that the present holder Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili, has, on the 16th August 1848, transferred the above Estate in gift to Rajah Inuganti Rajagopal Rao, which is accordingly registered this 7th September 1848. In the presence of T. Strinivasa Rao, Vakil to the former, and G. Appalanarisimhulu, Vakil to the latter. (Sd.) P. B. SMOLLETT, *Agent to the Governor.* (True Extract). (Sd.) P. B. SMOLLETT, *Agent to the Governor.*

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit III.

Admitted.

(Signed) H. R. FARMER,
District Judge.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 7. Defendants' Exhibit IV. Dheemut, 27th September 1848.

No. 7.

Defendants' Exhibit IV.

Seal of the Agent to the Governor at Vizagapatam.

Dheemut (order for the collection of revenue) issued by the Governor's Agent to Karnams and Nayaks.

Dheemut written to the Karnams and Nayaks of Kasba Jagannadhapuram with its hamlets and Thandisuravaram and Chidikada, attached to the Madugula Zamindari.

As the Zamindar of Bobbili, the present holder of the said villages, wrote to me on Wednesday, the 2nd of Sravana Bahula of the year Kilaka, corresponding to 16th August 1848, that the said villages were given as gift to Rajah Inuganti Rajagopala Rayanin Garu, you shall henceforward pay the sist, &c. due by you to the said Rajah Inuganti Rajagopala Rayanin Garu and be moving under his orders.

OFFICE OF THE GOVERNOR'S AGENT OF VIZAGAPATAM, CAMP VIZAGAPATAM, *27th September* 1848.

(Signed) P. B. SMOLLETT,
Agent to the Governor.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit IV.

Admitted.

(Signed) H. R. FARMER,
District Judge.

No. 8. Defendants' Exhibit V. Order to Papinayudu, 6th February 1849.

No. 8.

Defendants' Exhibit V.

Order issued to Papinayudu by Rajah Sveta Chalapati Ranga Rayanin Garu to the effect that the name of Rajagopala Rayanin Garu should be entered in the accounts.

M. R. Ry. Rajah Sveta Chalapati Ranga Rayanin Garu.

Order issued to Sasapu Lakshminayudu's son Papinayudu. As we gave to Rajah Inuganti Rajagopala Rayanin Garu, all the villages of Jagannadhapuram,

Deputy Registrar.

Thandisuravaram and Chidikada, &c. with their hamlets which are attached to Madugula and which we acquired by means of purchase and the Pappuchatti seri land, settling that he should enjoy the annual profits derived therefrom after paying every year the revenue due to Government, you should take the *Kadapas* hereafter from the people in the name of Rajah Rajagopala Rayanin Garu only. You shall enter his name alone in the accounts that you send hereafter.

14TH MAKHA SUDHA OF THE YEAR KILAKA, *6th February* 1849.

(Signed) ——(illegible).

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 8. Defendants' Exhibit V. Order to Papinayudu, 6th February 1849.—*concluded.*

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit V.

Admitted.

(Signed) H. R. FARMER,
District Judge.

No. 9. Defendants' Exhibit VI. Deed of gift, 19th February 1862.

No. 9.

Defendant's Exhibit VI.

Deed of gift executed by Rajah Sveta Chalapati Ranga Rao Bahadur to Inuganti Sitaramasvami.

Pattah executed on 19th February 1862 (5th Makha Bahula of the year Thurmathi) by Sri Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili, in favor of my nephew Rajah Inuganti Sitaramasvami.

Complying with your request that the income now derived by you from *Mustazari* (lease) &c. should be credited to the Sircar, that you should be given the villages of Jagannadhapuram &c. which we have obtained by purchase and that you should be made a Zamindar thereof and receiving the income derived from the *Mokhassa* Thevuthala village, from the lease of Mogilivalsa village and from your share in the villages of Komira, Purli, Vavilivalsa, Latchanavalsa, Thokalavalsa and Billani, the cash allowance given to you every year and the Government bond for Rs. 11,000 (rupees eleven thousand) bearing No. 2,829 of the years 1842 and 1843, I have given you as charity without taking the purchase money from you the Kasba (town) Jagannadhapuram with its hamlets Appalarajupuram and Vantarlapalem, and Thandisuravaram which are attached to the Zamindari of Madugula, which have been obtained from that Zamindar by purchase and which pay a revenue of Rs. 3,108-3-0 and the village of Chidikada which

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 9. Defendants' Exhibit VI. Deed of gift, 19th February 1862.—*concluded.*

was obtained by purchase from Mandapaka Jagannayakulu and which pays a revenue of Rs. 1,750, excluding the *Salabadu and Dava Brahmana Mirasi Manyams* and including the usual Kattubadis thereof. You shall, therefore, pay the Jamabundi money every year to Government according to instalments at Rs. 4,858-3-0 per year and enjoy from generation to generation the produce of the said villages after rendering them fit for produce, and live happily. The preservation of a gift is twice as meritorious as making a gift.

(Signed) Ranga Rao.

Witnesses :—

(Signed) N. Suryanarayanasvami.

(„) P. Narisimhulu.

Written by Allam Raju Jagannayakulu with the knowledge of these men.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit VI.

Admitted.

(Signed) H. R. FARMER,

District Judge.

No. 10.

No. 10. Defendants' Exhibit VII. Order to Putravu Kondal Rayudu, 29th July 1862.

Defendant's Exhibit VII.

Order to Putravu Kondal Rayudu by Rajah Sveta Chalapati Ranga Rao that accounts should be entered in the name of Sitaramasvami.

M. R. Ry. Rajah Sveta Chalapati Ranga Rao Bahadur Maharajulungar presents his compliments to Putravu Kondal Rayudu.

I gave the whole of the villages of Kasba Jagannadhapuram with its hamlets, Appalarajupuram and Vantralapalem and Thandisuravaram and Chidikada which are attached to the Madugula Zamindari and which were acquired by us by means of purchase, to our nephew (sister's son), Rajah Inuganti Sitaramasvami, on 19th February 1862 corresponding to Wednesday, the 5th of Magha Bahula of the year Thurmathi, by means of a *patta* on stamp paper, so that he might enjoy them hereditarily after paying the peishcush therefor to the Government every year. I even wrote a *dheemut* (permission for the collection of revenue) to the villagers. You shall henceforward conduct the affairs of

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 10. Defendants' Exhibit VII. Order to Putravu Kondal Rayudu, 29th July 1862.—*concluded.*

those villages in the name of Sitaramasvami only. You shall enter the accounts also in the name of Sitaramasvami. 29th July 1862 corresponding to Tuesday, the 3rd Sravana Sudha of the year Dundubhi.

(Signed) Sri Rajah Sveta Chalapati Ranga Rao.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th of October 1892 as Exhibit VII.

(Signed) H. R. FARMER,

District Judge.

No. 11.

No. 11. Defendants' Exhibit VIII. Order to Karnams and others, dated 29th July 1862.

Defendants' Exhibit VIII.

Order to the Karnams and others of the villages of Jagannadhapuram &c. to obey the orders of Sitaramasvami as the said villages were given away as gift to him.

M. R. Ry. Sri Rajah Sveta Chalapati Ranga Rao Bahadur, Bobbili Sarcarvaru.

Order written to the Karnams, the Naiks and the villagers of the villages of Jagannadhapuram with its hamlets Appalrajupuram, and Vantarlapalem, and Thandisuravaram and Chidikada which are attached to the Madugula Zamindari and which were acquired by us by means of purchase. I gave the whole of the said villages to my nephew (sister's son) Rajah Inuganti Sitaramasvami, on 19th February 1862, corresponding to Wednesday, the 5th of Magha Bahula of the year Thurmathi, by means of a *patta* on stamp paper, so that he might enjoy them hereditarily after paying the peishcush every year to Government. You shall henceforward pay the sist and *Inam* kattubadis to the said Sitaramasvami and be obeying his orders.

Tuesday, the 3rd of Sravana Sudha of the year Dundubhi, corresponding to 29th July 1862.

(Signed) Sri Rajah Sveta Chalapati Ranga Rao.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit VIII.

(Signed) H. R. FARMER,

District Judge.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 12. Defendants' Exhibit IX. Letter, dated 28th October 1862.

No. 12.

Defendants' Exhibit IX.

Letter, Sri Rajah Sitaramasvami Garu to his younger brother.

Rajah Sri Rajah Inuganti Sitaramasvami Garu blesses his younger brother Rajah Sitaramasvami Garu with long life. (I) am safe here till Tuesday, the 6th Karteeka Sudha of the year Dundubhi, corresponding to 28th October 1862, and hope to hear of your welfare. The contents of your letter, dated 11th of Asweeja Bahula (19th October) were understood. The Jamabandi receipt will not be issued in your name unless Jagannadhapuram and other villages are transferred and registered in your name. You will have to come here for making attempts for the (said) transfer and registration. If the revenue is not paid according to the instalments, interest also will be received. Therefore, pay the amount of instalment overdue in the Agent's Office and get the receipt in the name of the Sircar only. Attempts may be made afterwards regarding the transfer and registration in your name. Please therefore understand.

(Signed) Sri Rajah Sitaramasvami Garu.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th of October 1892 as Exhibit IX.

(Signed) H. R. FARMER,
District Judge.

No. 13. Defendants' Exhibit X. True copy of letter, dated 7th January 1863.

No. 13.

Defendants' Exhibit X.

Letter, Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur to Rajah Inuganti Sitaramasvami.

To

M. R. Ry. Rajah Inuganti Sitaramasvami, brother-in-law.

M. R. Ry. Rajah Sitaramakristna Rayadappa Ranga Rao Bahadur Maharajulungaru presents his compliments.

We are safe up to Wednesday, the 2nd of Pushya Bahula of the year Dundubhi (7th January 1863) and hope to hear of your welfare. Afterwards.

I went through the contents of your letter, dated Monday, the 15th of Pushiya Sudha (5th January 1863). (The letter) regarding the registration of Jagannadhapuram Taluq is written and kept ready, but was not despatched as the gentleman (Collector) is on circuit. It will be sent as soon as the

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 13. Defendants' Exhibit X. True copy of letter, dated 7th January 1863.—*concluded.*

gentleman reaches Vizagapatam. Your elder brother and I thought that the register book would be in Vizagapatam, and that it would not be taken along with the office. If you are of opinion that it (letter) should be sent now alone, we will do so. Unless the Collector reaches Vizagapatam registration will not be done, and (I) will only have to be moving along with him. I am not indifferent to you. You wrote that (I) removed the sorrow caused on account of my father's death from all, but not from you. I did not neglect to help you in any way. I did not reply to your previous letter owing to pressure of work and want of leisure. I have the idea of carrying out (the registration) but not to refrain from it. You are unnecessarily troubling yourself. You will not understand whatever I tell you. As the office will be coming here soon, I shall soon settle your money at my convenience after going through your accounts. When you write a letter, please think well about the contents thereof and then write. I shall always be favourably disposed to you. I shall not forget about your affairs. You said that, if I had no idea of carrying out your affairs and that if you are informed of that, you would leave matters to the will of God. What mistake have I committed now. I see no reason for your writing so severely. I have interest in your affairs. It seems from your letter that you are in want of some confidence in us. I shall, therefore, send (letter) in respect of your registration whenever you desire me to do so. Please, therefore, understand.

(Initialled) Kru. Ra. Sri.

(True copy).

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by Defendants' Counsel and filed on the 5th October 1892 as Exhibit X.

(Signed) H. R. FARMER,
District Judge.

No. 14. Defendants' Exhibit XI with two enclosures. Letter, 5th April 1866.

No. 14.

Defendants' Exhibit XI.

Letter, Sri Rajah Inuganti Sitaramasvami Garu to D. F. Carmichael, Esquire.

To

D. F. CARMICHAEL, ESQUIRE,
Collector of Vizagapatam.

I am safe here up to 5th April 1866. Please be writing of your welfare.

My maternal uncle Sri Rajah Sveta Chalapati Ranga Rao Bahadur, late Zamindar of Bobbili, gave me on the 19th February 1862, by means of a *patta* the proprietary villages of Chidikada, Jagannathapuram with its hamlets Appala-

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 14. Defendants' Exhibit XI with two enclosures. Letter, 5th April 1866.—*continued.*

rajupuram and Vantarlapalem and Thandisuravaram. Subsequently, when a letter for the transfer of the said villages was written to Sri Rajah Sitharamakrishna Rayadappa Ranga Rao Bahadur, Zamindar of Bobbili, he having agreed to it, sent a reply on Wednesday, the 2nd of Pushya Bahula of the year Dundubhi corresponding to 7th January 1863, stating that the Collector was then on circuit, that the registers &c., would not be taken along with the office and that he would have them transferred as soon as the Collector reaches Vizagapatam. Afterwards, the Collector reached the head-quarters. Although I asked (the Zamindar) several times, both by means of letters and personally, to send a Vakil for having the villages transferred, he goes on delaying, saying that he would have them transferred. Ever since the grant of the *patta*, peishcush is being paid by me only till now and the taluq has been in my possession and enjoyment. I, therefore, pray that my documents may be looked into and (the taluq) transferred (in my name). Please to consider.

(Signed) Sri Rajah Inuganti Sitaramasvami Garu.

Enclosure No. 1.

Enclosure No. 1 to Exhibit XI. Vakalutnama, 5th April 1866

Vakalatnama executed and given on 5th April 1866 to Chavali Somayajulu Garu and Mallapudi Ramadoss Garu by Sri Rajah Inuganti Sitharamasvami, proprietor of Chidikada and Jagannadhapuram &c. Authority is hereby given to you to have my proprietary villages transferred in the (books) in the office of the Collector of Vizagapatam, to file my letter written to the Collector for the purpose of obtaining a transfer of the said villages from Sri Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur, Zamindar of Bobbili, and to conduct all affairs concerning the said transfer. I shall regard whatever you file and whatever answer you make as having been made by me alone.

(Signed) Sri Rajah Sitaramasvami.

Witnesses :—

(Signed) Pilla Sithanna, witness.

(„) Darlapudi Vissanna, witness.

Written by Pogaru Ramamurti.

Second Enclosure to Defendant's Exhibit XI, 6th April 1866.

Enclosure No. 2.

To

Rajah Sri Sitaramakrishna Rayadppa Ranga Rao Bahadur,

Zamindar of Bobbili.

Rajah Inuganti Sitaramasvami Garu wrote to me a letter on the 5th instant that the villages of Chidikada &c. given to you by your father by means of a

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 14. Second Enclosure to Defendants' Exhibit XI, 6th April 1866.—*concluded.*

patta should be registered in his name. Please, therefore, send your Vakil to my office on the 15th instant for the registration of the said taluq.

OFFICE OF THE COLLECTOR OF VIZAGAPATAM, *6th April* 1866.

(Signed) D. F. CARMICHAEL,
Collector.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by the Defendants' Counsel and filed on the 5th October 1892 as Exhibit XI.

(Signed) H. R. FARMER,
District Judge.

No. 15.

No. 15. Defendants' Exhibit XII. Letter, dated 15th April 1866.

Defendants' Exhibit XII.

Letter, Rajah Rayadappa Ranga Rao Bahadur to D. F. Carmichael, Esquire.

To

D. F. CARMICHAEL, ESQUIRE,

Collector of Vizagapatam.

Your letter, dated 6th instant, is to hand, and I learnt the contents thereof. I submit the following to certain extent referring to the records in this place. The document alleged to have been given by my father, the late Rajah Garu, to Inuganti Sitaramasvami Garu, appears to be a strange document from some portion of its contents. Contrary to that, the word "patta" is used. After the demise of my father, the *jeroyati* village of Devuthala attached to our *Samstanam* and the *Mustajari* incomes should be received by me according to my father's will. It is contrary to law that my father should receive such property and a small amount of cash and give away to Sitaramasvami Garu the villages of Chidikada &c., which are of considerable value and which should be hereditarily enjoyed by me and others who are members of the same family. It appears from the latter portion of the document that my father gave away the said villages to Sitaramasvami without receiving the purchase money. It is contrary to Hindu Law and to the decisions of Courts that my father should give away as gift immoveable property without the consent of us, his sons. That document itself is evidence that our consent was not obtained. I am prepared to obtain justice by means of a regular suit. I, therefore, beg to inform you, who are well versed in laws and regulations, that I will not send Vakil as desired by you.

Sunday, the 30th of Chaitra Bahula of the year Akshaya corresponding to 15th April 1866.

(Signed) ———(Illegible)

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by the Defendants' Counsel and filed on the 5th October 1892 as Exhibit XII.

(Signed) H. R. FARMER,
District Judge.

No. 16.

Defendants' Exhibit XIII.

Extract from the Register of Estates in the District of Vizagapatam.

Chidikada and Jagannadhapuram.

Rajah Inuganti Sitaramasvami having applied to be registered as proprietor, and having filed a stamp document executed by the last registered proprietor (now deceased) transferring the estate to him; and it being shown that the said R. I. Sitaramasvami is now and has been for some years past in possession, paying the public demands thereon, notice was given of the application to the son of the last registered proprietor, deceased as aforesaid—who presents an *'arzi*, stating that it is his intention to contest the validity of the alienation made by his father, but admitting the facts set forth by the applicant.

The applicant's name is registered as proprietor accordingly.

(Signed) D. F. CARMICHAEL,
Collector.

April 23*rd*, 1866.

(True extract.)

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by the Defendants' Counsel and filed on the 5th October 1892 as Exhibit XIII.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

No. 17.

Defendants' Exhibit XIV.

Letter, Lakshmi Chellayyammi to J. R. Daniel, Esq., Collector of Vizagapatam.

To

J. R. DANIEL, ESQUIRE,
Collector of Vizagapatam.

As I came to know that Rajah Inuganti Bhavayya Garu, who was the sister of my husband, late M. R. Ry. Sri Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur Garu and who was the wife of the late Rajah Inuganti Sitaramasvami Garu, son of my elder mother, late Sri Inuganti Bangarayya Garu, or some one else who is my enemy, adopting her name, wrote to you a letter alleging amongst other things that the registered document which she had executed and given to me on the 6th ultimo was not executed and given by her. I have, therefore, thought it advisable to inform you of what had really taken place.

2. The estate of Chidikada Jagannadhapuram was acquired in 1835 by means of purchase by my father-in-law, *i. e.*, my husband's father, late M. R. Ry. Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu. As he was the brother of my mother, he gave the estate of Chidikada Jagannadhapuram to my father in consequence of the said relationship. At the time when it was given, it was settled that the (estate) should go back to my father-in-law only, who is the donor, in case my father should die leaving no male issue by my mother. My father died in 1856. Soon after, my father-in-law took possession of the said estate and had it in his name for some time. Afterwards, he gave it to the late Rajah Inuganti Sitaramasvami Garu, son of Sri Inuganti Bangarayya Garu who is his other sister and who is my elder mother. When he so granted (the estate), it was settled that if he should die without male issue, the estate should go back to the donors. The late Rajah Sitaramasvami Garu died without male issue on the 7th September last.

3. When I went to see my elder brother, late Rajah Inuganti Sitaramasvami Garu, a day or two before his death, he requested me, in the presence of my relatives who then happened to be present, that I should take possession of the said estate after his wife Rajah Bhavayya Garu had enjoyed it during her life-time subsequent to his death. I agreed to it owing to the great relationship that was existing between him and me.

4. Subsequently, I came to Sitaramapuram as we had to go on pilgrimage to Sri Jagannath, saw my sister-in-law Rajah Bhavayya Garu and reminded her of the topic that took place at the death of my elder brother. I even asked my sister-in-law what her opinion was regarding the payment of the debt to the extent of Rs. 40,000 (forty thousand Rupees) due to me by the said Rajah Inuganti Sitaramasvami Garu. Thereupon, she said "your elder brother is indebted to a large extent to people also. At present it is not possible to discharge even that debt. How can your debt be discharged. I shall dis-

charge it gradually in course of time," and requested me to agree to that effect. I agreed to it and asked her what she would say regarding Chidikada Jagannadhapuram estate. She said that, according to the settlement made by my elder brother, she would execute and give me then alone a document to the effect that the said estate might go to me after her demise, and she (also) told Kotagiri Venkata Rayanin Garu and Pogaru Ramamurti, who were managing her affairs, to write a document. Thereupon, the document was executed and registered properly.

5. Subsequently, the gnaties who had attested the said document, with the evil intention of acquiring for themselves the said estate of Chidikada Jagannadhapuram, having thought that the cancellation of the document in question was material to it and having carried on several intrigues in respect thereof, said to my sister-in-law, Rajah Bhavayya Garu "you have no authority to execute and give such a document. If the authorities should come to know that you executed and gave such a document, they will act against your interest. You should, therefore, say that you did not execute and give the document. If you say so, none could do anything to you. We shall give you all the necessary help. You need not at all admit the execution of the document. If you so admit it, it will do you harm". With these and other words, they (the gnaties) put her in fear in several ways and are getting writings executed to others as if written by her. I came to know all this.

6. As these transactions took place regularly and publicly, I inform you on the strength of near relationship, many transactions and for several reasons.

Wednesday, the 30th of Palguna Bahula of the year Srimukha corresponding to 18th March 1874.

(Signed) Maharajahsri Rajah Lakshmi Chellayyammi Bahadur, Rani of Bobbili &c.

(Signed) ————, (Illegible)

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by the Defendants' Counsel and filed on the 10th October 1892 as Exhibit XIV.

Proved by 1st, 2nd and 3rd witnesses for Defendants.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

No. 18.

Defendants' Exhibit XV.

Letter, Agent to the Governor to Rajah Inuganti Rajagopal Rao Garu.

Seal of the Governor's Agent at Vizagapatam.

To

Rajah Inuganti Rajagopal Rao Garu.

I am safe up to Wednesday, the 30th Bhadrapada Bahula of the year Kilaka corresponding to 27th September 1848, and hope to hear of your welfare.

I have received your letter and that of the Bobbili Zamindar, dated the 2nd of Sravana Bahula of the year Kilaka corresponding to 16th August 1848, stating that the latter, who is the present holder of Kasba Jagannadhapuram with its hamlets, Thandisuravaram and Chidikada villages attached to the Madugula Zamindari, gave you the said villages as gift. According to the request made in those letters, the said villages were registered in your name and *Dheemut* (permission for the collection of revenue) is sent herewith addressed to the Karnams, the Naiks and others of those villages so that the people in those villages might obey your orders. You must pay from the current year the Government peishcush according to the fixed instalments.

OFFICE OF THE AGENT TO THE GOVERNOR, VIZAGAPATAM, *27th September* 1848. CAMP VIZAGAPATAM.

(Signed) P. B. SMOLLETT,
Agent to the Governor.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 21st September 1891 by the Defendants' Counsel and filed on the 10th October 1892 as Exhibit XV.

Admitted.

(Signed) H. R. FARMER,
District Judge.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 19. Defendants' Exhibit XVI. True copy of petition, dated 11th April 1856.

No. 19.

Defendants' Exhibit XVI.

Petition by Sri Inuganti Gopayyammi Garu to the Governor's Agent.

Received on the 19th April 1856.

To

P. B. SMOLLETT, ESQUIRE,
Governor's Agent,
Vizagapatam District.

Petition presented by Sri Inuganti Gopayyammi Garu.

My elder brother, M. R. Ry. Sri Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili, gave as gift to my husband, Sri Rajah Rajah Gopala Rayanin Garu, the villages of Kasba Jagannadhapuram with its hamlets, Appalarajupuram and Vantarlapalem, Thandisuravaram and Chidikada attached to the Madugula Zamindari, which he acquired by means of purchase and which he delivered possession to him by means of transfer and registration. At the very time when these villages were given to my husband it was stipulated that the said villages should be taken possession of again by my elder brother if my husband should have no male issue. I have only a daughter named Lakshmi Chellayyammi by my husband, but no other issue. My daughter is eight years old. My husband was attacked with chronic fever six months ago: it became severe afterwards, and he eventually succumbed to it when it was 14 ghadias (about 1-30 A.M.,) on the night of Friday, the 14th of Palguna Bahula last (4th April 1856). I became the heir to his property. As he (my husband) had no male issue, my elder brother took possession again of the said villages, according to the stipulation. I, therefore, pray that his name may be entered in the register and that henceforward the peishcush of those villages may be collected from him. Please to consider.

Friday, the 7th of Chaitra Sudha of the year Nala (11th April 1856).

(Signed) Go.

(True copy.)

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 28th September 1892 by the Collector's Clerk and filed on the 6th October 1892 as Exhibit XVI. Admitted.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 20. Defendants' Exhibit XVII. True copy of letter, dated 11th April 1856.

No. 20.

Defendants' Exhibit XVII.

Letter, The Zamindar of Bobbili to the Governor's Agent.

Received on the 19th April 1856.

Reply in C. No. 2059.

To

P. B. SMOLLETT, ESQUIRE,
Governor's Agent,
Vizagapatam District.

I am safe up to Friday, the 7th of Chaitra Sudha of the year (torn) and hope to hear of your welfare.

I gave as gift, and delivered by means of transfer and registration to Rajah Inuganti Rajagopala Rayanin Garu, husband of my younger sister Sri Gopayyammi, possession of the villages of Kasba Jagannadhapuram with its hamlets Appalarajupuram and Vantarlapalem, Thandisuravaram and Chidikada which are attached to the Madugula Zamindari and which were acquired by me by means of purchase. It was stipulated at the very time when those villages were given to him by me, that they should be taken possession of again by me if he should have no male issue. This couple had only a daughter named Lakshmi Chellayyammi. Rajagopala Rayanin Garu was suffering from chronic fever six months ago: it became severe, and he (died) at 14 ghadias in the night on Friday, the 14th of Palguna Bahula last (4th April 1856). His wife Gopayyammi who is my younger sister, is heir to his property. As he had no male issue, I took possession again of the said villages according to the stipulation. These facts will be known to you by the petition which my younger sister, Gopayyammi, presented to you this day. I, therefore, pray that my name may be entered in the register and that henceforward peishcush for those villages may be collected from me. Please to understand.

(Initialled) Kh. Sri. &c.

(True copy.)

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 28th September 1892 by the Collector's Clerk and filed on the 6th October 1892 as Exhibit XVII. Copy produced on the 10th October 1892 by the Defendants' Counsel.

(Signed) H. R. FARMER,
District Judge.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 21. Defendants' Exhibit XVIII. True copy of letter, dated 14th May 1856.

No. 21.

Defendants' Exhibit XVIII.

Letter, Agent to the Governor to the Zamindar of Bobbili.

To

Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili.

Safe up to Wednesday, the 10th of Vaisakha Sudha of the year Nala (14th May 1856), and hope to hear of your welfare. Afterwards.

I received your letter, dated Friday, the 7th of Chaitra Sudha of this year (11th April 1856), stating that you gave to the late Sri Rajah Inuganti Rajagopala Rayanin Garu and delivered possession thereof by means of transfer and registration the three villages of Kasba Jagannadhapuram with its hamlets Appalarajupuram and Vantarlapalem, Thandisuravaram and Chidikada which are attached to the Madugula Zamindari and which were acquired by you by means of purchase; that it was stipulated at the very time when those villages were given to him by you, that they should be taken possession of again by you if he should have no male issue; that Rajagopala Rayanin Garu died on the night of Friday, the 14th of Palguna Bahula last; that, therefore, Gopayyammi Garu, his wife and your younger sister, became the rightful heir to his property; that, as he had no male issue, you took possession again of the said villages according to your *Khanigi* (private) arrangement, and that these facts would be known to me by the letter which Gopayyammi wrote to me in respect of this. As the facts contained in your letter are corroborated by the letter which Gopayyammi wrote (to me), the said three villages were again registered in your name. Please therefore understand.

OFFICE OF THE GOVERNOR'S AGENT AT VIZAGAPATAM, CAMP VIZAGAPATAM, 14*th May* 1856.

(Signed) P. B. SMOLLETT,
Agent to the Governor.

(True copy.)

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 6th October 1892 by the Defendants' Counsel and filed on the 6th October 1892 as Exhibit XVIII.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 22. Defendants' Exhibit XIX. True Extract of Collector's certificate, dated 3rd May 1856.

No. 22.

Defendants' Exhibit XIX.

Collector's certificate.

Chidikada and Jagannadhapuram Estates.

This is to certify that in conformity to the request of Sri Inuganti Gopayyammi, the relict and heiress of the late Inuganti Rajagopal Rao, proprietor of the above estates, these estates have been transferred to Sri Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili, according to the expressed desire of her late husband and accordingly registered in the presence of their Vakils this 3rd day of May 1856.

(Signed) P. B. SMOLLETT,
Collector and Agent to the Governor.

(Signed) Garuda Appalanarisimhulu, Vakil for Rajah Inuganti Rajagopala Rayanin Garu.

(„) Tharigoppula Srinivasa Rao, Vakil for Rajah Sveta Chalapati Ranga Rao.

(„) Bollapragada Butchanna, Vakil for Sri Inuganti Gopayyammi.

(True extract).

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 28th September 1892 by the Collector's Clerk and filed on the 6th October 1892 as Exhibit XIX.

Admitted.

(Signed) H. R. FARMER,
District Judge.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 23. Defendants' Exhibit XX. Endorsement on application for copy, dated 6th October 1892.

No. 23.

1301. *Defendants' Exhibit XX.*

Endorsement of Collector on application for copy of a letter, made by P. Narayanasvami Chetti, Barrister-at-Law.

Endorsement on copy application, dated 27th September 1892, submitted by P. Narayanasvami Chetti, Barrister-at-Law, inhabitant of Vizagapatam, Vizagapatam Taluq.

The applicant is hereby informed that the letter applied for in his application, namely, the letter written in February 1874 to the Collector by Inuganti Bhavayyammi Garu to the effect that the arzi written that the Chidikada estate was transferred to the Rani of Bobbili, is a forgery, is not in the record.

OFFICE OF THE COLLECTOR OF VIZAGAPATAM, *6th October* 1892.

(Signed) ———, (illegible)
for Collector.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 10th October 1892 by the Defendants' Counsel and filed on the 10th of October 1892 as Exhibit XX.

Admitted.

(Signed) H. R. FARMER,
District Judge.

No. 24. Defendants' Exhibits XXI & XXII. Proceedings of the Court of Wards, dated 25th April 1879.

No. 24.

No. 1096. *Defendants' Exhibits XXI & XXII.*

Proceedings of the Court of Wards, dated 25th April 1879.

Read the following letter from H. St. A. Goodrich, Esquire, Acting Collector of Vizagapatam, to C. A. Galton, Esquire, Acting Secretary to the Court of Wards, dated 12th April 1879, No. 291.

I have the honour to solicit the orders of the Court of Wards on the following point.

I should have acted under the circumstances to be reported without a previous reference to the Court, but as my successor must necessarily be new to the District and unacquainted with the foregoing transactions, the Court may desire to issue special instructions or to take legal advice.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 24. Defendants' Exhibits XXI & XXII. Proceedings of the Court of Wards, dated 25th April 1879.—*continued.*

2. My report * that an attempt had been made by one Lingam Lakshmaji Pundit to fraudulently obtain possession of the estate of the proprietrix of Chidikada Jagannadhapuram, a ward of the Court, may be referred to in proceedings, No. 4351, dated 17th September 1877. I committed the man named with others for trial on a charge of forgery. He was convicted and sentenced to seven years' imprisonment, but released on appeal by the High Court.

* Dated 2nd July 1877, No. 681.

3. The contention of the prosecution had been that he had forged or procured to be forged certain letters, one of which purported to be to himself from the lady above named promising the grant of a lease of her estate to him.

4. In February 1874 the Chidikada Jagannadhapuram proprietrix petitioned the Collector (Mr. Daniel, now Judge of Berhampore,) stating that two documents had been registered under two powers of attorney purporting to be executed by herself. One of these documents granted a lease of her estate to Lingam Lakshmaji Pundit, the other assigned the estate to the Rani of Bobbili on her death. She stated that the signatures purporting to be hers were forgeries.

Mr. Daniel directed inquiries to be made and was satisfied by the reports that reached him that the forgery, as alleged, had been committed. Mr. Webster succeeded him just at this time; those who were interested in these documents without receiving any consideration cancelled them—a pretty good proof of their character. The reason why the matter was permitted to drop was the fact that, had the case been proceeded with as a case of forgery, the Rani of Bobbili must have appeared in the character of a principal Defendant.

5. Lingam Lakshmaji Pundit having, at a later period, broken with Bobbili and having joined himself with the heirs of the husband of the proprietrix applied to me on the 5th October 1876 that the lady should be declared a lunatic and the possession of the estate transferred to those heirs. Having held an inquiry I was satisfied of the lady's sanity. Thereafter he endeavoured to obtain possession of the estate by collecting the rents in defiance of the lady's regular agent. I decreed possession to the latter, and my order was upheld by the High Court. He then produces the letters for forging which he was tried and sues in the District Court to compel the lady to grant him the lease which she in those letters appears to promise.

6. The suit was stopped by my impounding the letters and committing him for trial for forging them, and Lingam Lakshmaji Pundit has since remitted his attacks upon the lady's property. Having heard, however, of my immediate departure, he has taken steps to bring on his suit again.

7. Now the lady (whose sanity Lingam Lakshmaji Pundit denied when it suited his purpose) on whose written promises he relies, has repeatedly denied that she ever made such promises, and has sworn in the Sessions Court at Masuli-

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 24. Defendants' Exhibits XXI & XXII. Proceedings of the Court of Wards, dated 25th April 1879.—*concluded.*

patam that the signatures are forgeries. Her testimony was not in the least shaken on cross-examination.

8. It no doubt did not seem open to the prosecution to frame an alternative charge of forgery *or* cheating by inducing the lady to sign these papers by misrepresentation of their contents, when the direct evidence of the lady herself that the signatures were certainly not hers was tendered.

9. The High Court's judgment in appeal may be taken to proceed on the assumption that the lady might have been mistaken.

10. The question for the Court of Wards is how do they wish the fresh assault upon the property of their ward to be met. A fresh criminal prosecution for cheating would be met by a plea of *autre fois acquit*, and there is a good deal to be said on both sides in support of and against that plea.

11. The papers on which Lingam Lakshmaji Pundit bases his civil claim are not yet received from the High Court; if the Court of Wards desires that they be sent for inspection, they shall be sent as soon as received.

If a suit be brought, it must be defended and legal advice can be taken if necessary when the Collector submits the answer he would propose to file.

(A true copy and extract).

To the Collector of Vizagapatam.

(Signed) J. STURROCK,
Acting Sub-Secretary.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Produced on the 28th September 1892 by the Collector's Clerk and filed on the 10th of October 1892 as Exhibits XXI and XXII.

Public Documents.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 25. Miscellaneous Petition No. 528 of 1891, 5th December 1891.

No. 25.

Plaintiff's petition to appoint a Commissioner.

To THE DISTRICT JUDGE OF VIZAGAPATAM.

Miscellaneous Petition No. 528 *of* 1891 *connected with*

Original Suit No. 39 *of* 1890 *on the file of your Court.*

Sri Sri Rajah Rao Venkata Sveta Chalapati Ranga Rao Bahadur, Rajah of Bobbili Samastanam &c. ... ... *Plaintiff.*

versus

The Collector of Vizagapatam, Agent to the Court of Wards, on behalf of Sri Inuganti Bhavayyammi Garu ... ... *Defendant.*

Under Sections 383 and 640 of the Civil Procedure Code.

Petition caused to be filed by the Plaintiff.

1. Plaintiff has filed a list of witnesses on the 4th of this month.

2. (1) Sri Rao Lakshmi Narasayyammi Garu, (2) Sri Rao Subhadrayyammi Garu and (3) Sri Rao Kanthayyammi Garu—these three persons mentioned in the said list are old Gosha ladies observing Zenana and belonging to the Bobbili Zamindar's family. The evidence of these three witnesses is very necessary for the Plaintiff's contention.

3. Therefore, Plaintiff prays for an order that these three ladies may be examined on commission and that a Commissioner may be appointed (for that purpose).

Please to consider.

5th December 1891.

(Signed) ———(Illegible),
Pleader.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 26. Counter-Petition of Defendant in Miscellaneous Petition No. 528 of 1891, 8th February 1892.

No. 26.

Counter-Petition of Defendant opposing the appointment of a Commissioner.

To

THE DISTRICT COURT OF VIZAGAPATAM.

Miscellaneous Petition No. 528 *of* 1891 *connected with*

Original Suit No. 39 *of* 1890.

Sri Rao Venkata Sveta Chalapati Ranga Rao Bahadur, Sri Rajah of Bobbili ... ... *Plaintiff.*

versus

The Collector of Vizagapatam, Agent to the Court of Wards on behalf of Sri Inuganti Bhavayyammi Garu who is under its protection ... ... *Defendant.*

Counter-petition filed on behalf of the Defendant.

1. Plaintiff has filed a petition to the effect that he cited the three ladies Sri Rao Lakshmi Narasayyammi Garu, Sri Rao Subhadrayyammi Garu and Sri Rao Kanthayyammi Garu as his witnesses in this suit and that they might be examined at Bobbili. The said suit is fixed for final hearing in the month of July of this year. No reasons are shewn in the petition why the witnesses should be examined so early as this when there are still five or six months more for the final hearing: nor was any affidavit filed. The age of the witnesses also is not mentioned in it.

2. By the examination of these witnesses now when there is still so much time for the hearing, not only will unnecessary expense, inconvenience and troubles be caused to the Counter-petitioner but also the contention of the Defendant will fail. Among these three witnesses, Rao Kanthayyammi Garu is at present in Madras. For this reason also a Commissioner's enquiry is unnecessary.

3. The Plaintiff who is the Rajah of Bobbili is influential and wealthy. Should the Court consider that these witnesses should be examined now, it is necessary that they should be examined by this Court as the suit is one concerning the Zamindari Estate, as these witnesses are of the same caste as, and related to, the Plaintiff, the Rajah of Bobbili, and also owing to the nature of the suit. Therefore, the Counter-Petitioner prays that those witnesses may be sent for here and examined either at their residence or in Court in Chambers. Please to consider.

8th February 1892.

(Signed) D. W. NARSOO,
Pleader.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 27. Office note and District Judge's orders, 8th and 22nd February 1892.

No. 27.

Office note and District Judge's orders on M. P. No. 523 of 1891.

IN THE COURT OF THE DISTRICT JUDGE OF VIZAGAPATAM.

Miscellaneous Petition No. 528 *of* 1891,

connected with Original Suit No. 39 *of* 1890.

Office Note.

Application under Sections 383 and 640, C. P. C., praying that a commission may be issued to examine three gosha ladies of the Bobbili family.

Plaintiff says that they are old ladies and also gosha.
Orders under Section 383 required.

Notice does not appear to be necessary.

(Signed) M. Suryanarayana,
Suit clerk.

Judge's Orders.
Notice to other side.

(Signed) H. R. FARMER,
District Judge.

The Collector's standing Counsel Mr. Nayudu had notice on the 18th December and again notice was issued on the 8th January to the Collector. In accordance with that notice the Collector now opposes the issue of a commission on the ground that the cross-examination of the witnesses will disclose the line of defence and enable the Plaintiff to concoct evidence.

Before orders are passed, an affidavit should be put in by plaintiff, showing details of the grounds upon which he considers that his case will suffer by postponing the examination of the witnesses to some date shortly before the day of hearing. Affidavit to be put in by the 20th February 1892.

(Signed) H. R. FARMER,
8—2—1892.

In the absence of a medical certificate stating that the ladies are unable to travel 16 miles by palanquin, I think that, as the Collector strongly opposes the examination at Bobbili, a commission should issue to the Munsif of Parvatipur to examine them there. Both parties directed (Section 400) to appear before the Commissioner.

(Signed) H. R. FARMER,
22—2—1892.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 28. Commissioner's Report returning the evidence given before him, 14th September 1892.

No. 28.

Commissioner's Report.

To

H. R. FARMER, ESQUIRE,

District and Sessions Judge,

Vizagapatam.

SIR,

The warrant of commission to record the evidence of three gosha witnesses on behalf of the Plaintiff in Original Suit No. 39 of 1890 of your Court's file reached me on the 5th instant. Finding that I had not got sufficient time to issue postal notices to the parties and that any notice issued to a ward under the Court of Wards, without mentioning the name of her *guardian ad litem* will be invalid, I asked you to give notice to the necessary Pleaders as to when I was going to record the evidence.

I went to Bobbili on the 11th to choose a suitable place to examine the witnesses. At my suggestion the Plaintiff's Agents showed me a place in the old fort and supported their choice with their reasons. The Defendants' Pleader came the next day and asked me to hold the examination at the 1st Defendant's quarters. I asked him to consider about the queer habits and imperious temper of the 1st Defendant and the smallness and inconvenience of her residence as reasons for the impracticability of his request. Further, when he saw the place suggested by the Plaintiff he raised no objection to it. A note of this will be found in the record. I can safely assert that there was neither failure of justice nor any violation of the gosha and respectability of the witnesses by examining them in the old fort.

As each witness was brought in for examination she was identified by a maid servant of the 1st Defendant who was brought there by the Pleader for the Defendants.

I enclose the evidence as recorded by me.

A list of papers herein enclosed is also sent with this.

I have the honor to be,
Sir,
Your most obedient servant,

PARVATIPORE,
14th September 1892.

(Signed) O. V. JAGANNADHA SASTRI,
Commissioner.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 29. Deposition of Plaintiff's 1st witness taken on 12th September 1892.

Enclosure No. 1 to 28.

Deposition of Plaintiff's 1st witness taken by the Commissioner.

Original Suit No. 39 *of* 1890

ON THE FILE OF THE DISTRICT COURT OF VIZAGAPATAM.

Plaintiff's 1st witness.

Name	Sri Rajah Rao Subhadrayyammi Garu.
Father's name	Chelikani Bhoosurarayanim Garu.
Age	54 years.
Occupation	Member of the family of the Bobbili Zamindari.
Caste	Velama.
Residence	Bobbili.

Taken down on solemn affirmation.

Plaintiff's grandfather, Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu, is my brother-in-law, *i. e.*, the elder brother of my husband, late Janardhana Ranga Rayanin Garu. I know Sri Inuganti Rajagopal Rao Garu. He is the husband of my husband's sister, Sri Gopayyammi Garu. Sri Gopayyammi Garu and myself are the daughters of paternal aunt and maternal uncles of each other. She is the daughter of my paternal aunt. Sri Rajagopal Rao and Sri Gopayyammi Garu were living in the eastern house in the old fort. Sri Rajagopal Rao had a taluq called Chidikada Jagannadhapuram. I know the death of Sri Rajagopal Rao Garu. He died only in the eastern house of this old fort. At the time of his death, he had a daughter named Sri Rajah Lakshmi Chellayyammi Garu. After the death of Sri Rajagopal Rao Garu, his wife Gopayyammi Garu, and his daughter Lakshmi Chellayyammi Garu were under the protection of my *bavagaru* (brother-in-law) Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu. Within ten days after the death of Sri Rajagopal Rao Garu, Sveta Chalapati Ranga Rayanin Garu brought Gopayyammi Garu and Lakshmi Chellayyammi Garu to these houses in the west in which I, my mothers-in-law and my co-daughters-in-law live. After my brother-in-law brought Sri Gopayyammi Garu to these houses in the west, I know that my brother-in-law and Gopayyammi Garu were talking with each other. In the course of their conversation, my brother-in-law, Sveta Chalapati Ranga Rao Bahadur Garu, said that Chidikada Jagannadhapuram was given permanently to Rajagopal Rayanin Garu, that although it was so given, there would be disputes in future by her brothers-in-law who are her heirs, if it was registered in her name then; that, besides, the names of females should not be retained in the *kutcheri*, that, although it was given permanently in the beginning, yet there were certain private terms come to between himself and Rajagopal Rao Garu to the effect that, if the latter had no male issue, the taluq should be delivered to the former; that, unless it was written to the Collector by Gopayyammi Garu and Sveta Chalapati Ranga Rao Bahadur Garu together, the taluq would not be registered in the name of the latter, that Gopayyammi Garu would not have any kind of troubles, that Gopayyammi

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 29. Deposition of Plaintiff's 1st witness taken on 12th September 1892.—*concluded.*

Garu and her daughter would be in no want whatever and that (the latter) would be treated as his own daughter. In reply to that, Gopayyammi Garu said to Sveta Chalapati Ranga Rao Bahadur Garu that she would act according to his will and that she had nobody else. I have not been hearing well for the last ten or twenty years. Really 15 years have elapsed.

Reply to the questions of the Pleader for the Defendant.

Sri Rajagopala Rayanin Garu and Sri Gopayyammi Garu were living permanently in the eastern house in this old fort. They never lived in any other country from the time that I attained the age of discretion. I do not know the name of the year in which Rajagopal Rao Garu died. I cannot give approximately how long since he died. Besides Chidikada Jagannadhapuram Taluq, Rajagopal Rao Garu had some ancestral lands. He gave those lands to his elder brother's son, Sri Inuganti Sitaramasvami Garu. I heard that it was so given. I do not know it myself. My brother-in-law protected Gopayyammi Garu and Lakshmi Chellayammi Garu, that is to say, my brother-in-law alone was giving them whatever they required, namely, carriages &c. I saw my brother-in-law give *sommu* (money or jewel) to Gopayyammi Garu and her daughter. We used to go behind the door a little when my brother-in-law comes to the place where my mother-in-law and others live. We saw our brother-in-law bringing (here) Gopayyammi Garu and Lakshmi Chellayammi Garu within ten days after the death of Rajagopal Rao Garu. At the time when the above-mentioned words were uttered in the course of conversation between my brother-in-law and Gopayyammi Garu, my mother-in-law Sri Rao Chellayammi Garu, junior mother-in-law, Sri Lakshmi Narasayyammi Garu, my co-daughters-in-law and two or three *dasis* [maid servants] were present. None else was present except these. When this conversation took place, we were behind the door close by. My mother-in-law and my junior mother-in-law were on the other side of the door. I and my co-daughters-in-law were on this side of the door. My brother-in-law and Gopayyammi Garu were on the same side on which my mother-in-law and my junior mother-in-law were. I cannot say how many years ago this conversation took place. It took place within ten days after the death of Sri Rajagopal Rao Garu. We, co-daughters-in-law, used to speak to one another that such a conversation took place. Ever since this conversation took place till now, I did not tell (this) to any one. As the authorities have asked me now, I have said this.

Answer to the questions asked again by the Pleader for the Plaintiff.

My brother-in-law brought Gopayyammi Garu and Lakshmi Chellayyammi Garu in a palanquin to this house through the big gate. There is not much distance between the eastern house in which they were before and the western house to which they were brought. Heard-Correct.

(Signed) Sri Rajah Subhadrayyammi Garu.

Taken down in my own hand.

(Signed) O. V. JAGANNADHA SASTRI, *Commissioner*,
12—9—92.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 30. Deposition of Plaintiff's 2nd witness taken on 12th September 1892.

Enclosure No. 2 to 28.

Deposition of Plaintiff's 2nd witness taken by the Commissioner.

Original Suit No. 39 of 1890

ON THE FILE OF THE DISTRICT COURT OF VIZAGAPATAM.

Plaintiff's 2nd witness.

Name	Sri Rajah Rao Lakshmikanthayyammi Garu.
Father's name	Sri Rajah Inuganti Rama Rayanin Garu.
Age	61 years.
Occupation	Member of the family of the Bobbili Zamindari.
Caste	Velama.
Residence	Bobbili.

Taken down on solemn affirmation.

Sri Rajah Inuganti Rajagopala Rayanin Garu is my junior paternal uncle. Sri Gopayyammi Garu is my junior paternal uncle's wife. Besides, she is my mother's half sister. My husband's name is Sri Rajah Venkata Ranga Rayanin Garu. Plaintiff's paternal grandfather, Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu, is my husband's elder brother. Sri Rajahgopala Rayanin Garu and his wife Gopayyammi Garu used to live in this old fort only. Chidikada Jagannadhapuram Taluq used to be in the enjoyment of Sri Rajagopal Rao Garu. He died in the old fort of Bobbili only. I do not remember how long ago it was. It would be about 37 years ago. At the time of Sri Rajagopala Rayanin Garu's death, he had a daughter called Sri Rajah Lakshmi Chellayyammi Bahadur. After the death of Sri Rajagopala Rayanin Garu, his wife Gopayyammi Garu and his daughter Lakshmi Chellayyammi Garu were brought by my brother-in-law to the house in which my mother-in-law and others live. Ever since, they both used to stay in this house under the protection of my brother-in-law. On the very tenth day after the death of Sri Rajagopal Rao Garu, conversation took place between my brother-in-law and Sri Gopayyammi Garu regarding the Taluq of Chidikada Jagannadhapuram. My brother-in-law said to Gopayyammi Garu in the course of conversation "We gave Chidikada Jagannadhapuram to your husband in order that he might enjoy it hereditarily. Your husband is dead. As there will be troubles caused to you by your *gnaties*, (kinsmen), you should write to the Collector and have (the taluq) registered in our name". Besides this, my brother-in-law also said "As we said to Rajagopalam at the time when we first gave (the taluq) to him that it should go to us if there be no male issue, he (Rajagopalam) said that he would have it so written to the Collector. He said that he would have it written to the effect that (the taluq) given by the donors might go back to them. Considering that, if he does not write so to the Collector, (the taluq) given by us will not come to us again, he said that he would write so for the

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 30. Deposition of Plaintiff's 2nd witness taken on 12th September 1892.—*concluded.*

purpose of safety." The above-said conversation took place in this house only. When my brother-in-law said like this, Gopayyammi said "Elder brother, well, I shall act according to your pleasure." I heard these words. When these words were spoken, my senior mother-in-law, my junior mother-in-law and my co-daughters-in-law were present. My co-daughters-in-law and myself were behind the door. My senior and junior mothers-in-law were in the same place where my brother-in-law and Gopayyammi Garu were.

Examination by the Pleader for the Defendant:—I am now under the protection of the plaintiff only. I have been (so) for the past fourteen months. I said that Gopayyammi Garu and Lakshmi Chellayyammi Garu were under the protection of my brother-in-law, because we and they were born and living in the same place. I used to see my brother-in-law give money to Gopayyammi and Lakshmi Chellayyammi Garu. I saw him giving her, whenever she wanted, one hundred, fifty or thirty rupees according to the urgency. I was seeing this as (I) was living in the same place. Besides the taluq of Jagannadhapuram, Rajagopala Rayanin Garu had lands inherited from his father. When my brother-in-law was speaking to Gopayyammi Garu, he said that it would be safe if it was written to the Collector according to what he had said. Therefore, I said so. I did not say so out of my imagination.

Q.—Did your brother-in-law say to Gopayyammi Garu "although the taluq was given permanently to Rajagopal Rao Garu, it will not be registered in my name unless the Collector is informed that the taluq was given on condition of having a male issue and that, therefore, it should be written so"? or, did he say, "as, at the time when the taluq was given to Rajagopal Rao Garu, it was given to him on condition of having a male issue, we will, therefore, write to the Collector in that manner"?

A.—He said as you stated first. This conversation took place among our co-daughters-in-law alone, but was never said to others. The natural father of Siripuram minor Zamindar who brought a suit against me for recovering the Vungarada estate is Sitaramasvami Garu. The next heir to Chidikada estate is the present plaintiff and not Sitaramasvami Garu mentioned above. I do not know who will be the heirs to Chidikada estate if the plaintiff in question fails in this suit. My opinion is that this Plaintiff alone is the heir even though Sri Rajah Bhavayyammi Garu is alive. There were no males present when the said conversation went on between my brother-in-law and Gopayyammi Garu.

No further examination by the plaintiff.

Heard-Correct.

(Signed) Sri Rajah Lakshmi Kanthayyammi Bahadur.

Taken down in my own hand.

(Signed) O. V. JAGANNADHA SASTRI,
Commissioner.

12—9—92.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

Enclosure No. 3 to 28. Deposition of Plaintiff's 3rd witness Sri Rajah Rao Lakshmi Narasayyammi Garu, given on 12th September 1892.

Enclosure No. 3 to 28.

Deposition of Plaintiff's 3rd witness given before the Commissioner.

Original Suit No. 39 *of* 1890

ON THE FILE OF THE DISTRICT COURT OF VIZAGAPATAM.

Plaintiff's 3rd Witness.

Name	Sri Rajah Rao Lakshmi Narasayyammi Garu.
Father's name	Sri Inuganti Venkata Rayanin Garu.
Age	Above 80 years.
Occupation	Zamindarnee.
Caste	Velama.
Residence	Bobbili.

Taken down on solemn affirmation:—

Sri Rajah Sveta Chalapati Ranga Rao Garu is the son of my co-wife. Sri Gopayyammi Garu is my co-wife's daughter. I adopted her. Sri Rajagopal Rao Garu is the son of my junior paternal uncle. Gopayyammi Garu is his wife. Sri Rajah Gopala Rao Garu had Chidikada Jagannadhapuram Taluq. My co-wife's son, Sri Rajah Sveta Chalapati Ranga Rao Garu, gave that to him. It was given to him that he might enjoy it hereditarily. After the death of Sri Rajagopala Rayanin Garu, his wife Gopayyammi Garu and his daughter Lakshmi Chellayyammi Garu were with me under the protection of Sveta Chalapati Ranga Rayanin Garu. After the death of Sri Rajagopal Rao Garu and while still under pollution, Sveta Chalapati Ranga Rao Garu told Gopayyammi Garu that he would protect her and her daughter and took the Chidikada Taluq. Sveta Chalapati Ranga Rayanin Garu said that he would take the Taluq as Gopayyammi Garu had no male issue and as he promised to protect her. Sveta Chalapati Ranga Rao Garu said that he would take the Taluq because there would be troubles caused by the *gnatis* (cousins) of Gopayyammi Garu. I do not remember what was said in course of conversation regarding the information to be given to the authorities in respect of this. As I became old, I have no recollection of it.

Reply to the questions of the Pleader for the Defendant.

I know the fact of the giving of the Chidikada Taluq to Rajagopala Rayanin Garu by Sveta Chalapati Ranga Rao Garu. I do not remember owing to my old age whether any documents were executed subsequently in respect of that. I and my co-wife were present when the Taluq was first given to Rajagopala Rayanin Garu. I do not remember who else was present. I do not remember having told Plaintiff's father that Chidikada was given to Rajagopala Rayanin

RECORD.

PART I.

In the District Court of Vizagapatam.

Enclosure No. 3 to 28. Deposition of Plaintiff's 3rd witness &c.—*concluded.*

Garu in order that he might enjoy it hereditarily. I am now under the protection of the Plaintiff. The statements that I now made were from my memory. The Taluq was taken back because it would pass away to the *gnaties* as Gopayyammi Garu had no male issue.

There was no re-examination by the Plaintiff.

Heard. Correct.

(Mark of) Sri Rajah Rao Lakshmi Narasayyammi Garu.

Witness said that she was not able to sign as her hand was shaking.

(Signed) O. V. JAGANNADHA SASTRI,
Commissioner.

12—9—1892.

No. 29. Affidavit of Defendant's Pleaders.

No. 29.

Affidavit of Defendant's Pleaders that copies of record in the Collector's Office were declined to be granted.

To

THE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Sri Sri Sri Rajah of Bobbili ... ... *Plaintiff.*

versus

Sri Inuganti Bhavayyammi Garu ... ... *Defendant.*

Affidavit filed by the Pleaders for the Defendant in this case under Section 194, Civil Procedure Code.

We hereby state on solemn affirmation that the record mentioned in the application for summons filed on the 22nd of this month asking for its production from the Office of the Collector of Vizagapatam on behalf of the Defendant in this suit, forms part of the private correspondence of the Office of the Collector of the said District and that copies thereof cannot be granted. These facts are true to the best of our knowledge and belief.

(Signed) B. SURYANARAYANA,
Pleader.

(„) P. Narayanasvami Chetti,
Bar-at-law.

District Judge's Order on No. 29, 26th September 1892.

An endorsement from the Collector should be produced, shewing that he refuses to grant the copies.

(Signed) H. R. FARMER.

26—9—92.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 30.

IN THE HONORABLE DISTRICT COURT, VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

(*Miscellaneous Petition No.* 333 *of* 1892.)

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Plaintiff.*

versus

1. Sri Inuganti Bhavayyammi Garu, ward under the Court of Wards by
2. The Collector of Vizagapatam, Agent to the Court of Wards. } *Defendants.*

Under Section 137 of the Civil Procedure Code. Petition presented by the Plaintiff.

Most respectfully sheweth.

That the 1st Defendant in this case wrote two letters to the 2nd Defendant, one on the 27th December 1890 and the other on the 16th August 1891; that these letters contain statements by the 1st Defendant, proving the truth of several facts stated by the Plaintiff in the plaint; that the Plaintiff having come to know about these letters only a few days since, he is unable to produce certified copies of these two letters; and that the production of these letters is necessary to enable the Plaintiff to prove his case.

And that your Honorable Court may, therefore, be pleased to order that these letters may be produced by the Defendants. For which act &c.

(Signed) E. F. SICE,
Plaintiff's Pleader.

(„) P. SESHAGIRI RAO,
Pleader.

27th September 1892.

No. 30. Petition by Plaintiff praying for an order directing the Defendants to produce certain letters written by the 1st to the 2nd Defendant, 27th September 1892.

No. 31.

To

THE COURT OF THE DISTRICT JUDGE OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890 *on the file of your Court.*

M. R. Ry. Sri Sri Rajah Rao Venkata Sveta Chalapati Ranga Rao Bahadur, Rajah of Bobbili samstanam &c. ... ... *Plaintiff.*

versus

1. Sri Inuganti Bhavayyammi Garu, ward under the Court of Wards, represented by
2. The Collector of Vizagapatam, Agent to the Court of Wards. } *Defendants.*

No. 31. Affidavit of Plaintiff's Statepundit Kotenkalapudi Venkatakrishna Somayajulu, dated 27th September 1892 and filed in support of Plaintiff's petition (paper No. 30.)

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 31. Affidavit of Plaintiff's State-pundit, &c.—*concluded.*

Affidavit filed in these proceedings by Kotenkalapudi Venkatakrishna Somayajulu, residing at Bobbili, son of Ramadoss Garu, aged 67 years, Brahmin, Mokhassadar and Plaintiff's State-pundit.

In the said proceedings, the 1st Defendant wrote to the 2nd Defendant a letter on the 27th December 1890 and another on the 16th August 1891. In those letters there are some facts which are material to the Plaintiff's case. The existence of these letters did not come to the knowledge of the Plaintiff till about a week ago. Therefore, it is necessary that the originals of these letters should be filed in the said number (suit).

Please to consider.

27th September 1892.

(Signed) Kotenkalapudi Venkatakrishna Somayajulu.

No. 32.

No. 32. Office Note relating to Plaintiff's Petition for an order to direct Defendants to produce certain letters written by the 1st Defendant to the 2nd, 29th September 1892.

Miscellaneous Petition No. 333 *of* 1892.

Connected with Original Suit No. 39 *of* 1890.

Office Note.

This is a petition put in by Plaintiff praying the Court to send for certain letters in original written by the 1st Defendant to the Collector of Vizagapatam, under section 137, C. P. C.; an affidavit also is put in.

The section quoted does not apply. The affidavit is simply signed by a pundit in Plaintiff's service but not sworn to by the applicant as required under section 197, C. P. C., and no orders can be passed on this petition. The case was posted on the 28th instant and this application was made on the 27th instant. The case is not taken up yet.

(Initialled) ———, (illegible)
Clerk.
29—9—92.

District Judge's Order.

The applicant wishes to withdraw as section is inapplicable. The application is dismissed.

(Signed) H. R. FARMER.

30th September 1892.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 33. Deposition of Plaintiff's 4th witness given on 5th October 1892.

No. 33.

Deposition of Plaintiff's 4th witness given before the District Judge.

IN THE COURT OF THE DISTRICT JUDGE, VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

4th witness for Plaintiff.

Name of witness	Allumraju Rangayya.
Father's name	Allumraju Bapanna.
Residence	Bobbili.
Caste	Brahmin.
Age	73.
Occupation	Musaddi.

Deposes on solemn affirmation :—

I knew the paternal grandfather of the present Rajah of Bobbili. His name was Turchalapatte; and I worked as an Assistant Munshi under him. He had five sisters, two of whom were Bangarayyammi and Gopayyammi who was the youngest sister. Gopayyammi married Rajagopal Rao, the son of the Rajah's father's sister. The marriage took place more than 40 years ago. The Rajah gave order to the *purohit*, Kotenkalapudi Kothandaramayya, to proclaim to all present at the marriage that he (the Rajah) made a gift of the Chidikada estate to Rajagopal Rao on the occasion of his marrying the Rajah's cousin Gopayyammi.

Note.—In answering the question as to whether the Rajah had made a gift of the plaint land, the witness, at this stage, in repeating the terms of the proclamation proceeded to give the terms of the gift.

The Defendant objected to any evidence as to the terms of the gift, as inadmissible under section 91, Indian Evidence Act, in the absence of the deed of gift itself, secondary evidence of which had been tendered and held to be inadmissible. It was held that the evidence which the witness offered as regards the terms of the gift, was inadmissible under section 91, Indian Evidence Act.(1)

Evidence continued.—The *purohits* were present, so were the Rajah's relatives and men of his caste; the Rajah's gumastahs, and servants and many other people were present.

Cross-examined :—The Rajah's relations present at the wedding were

(1) I. L. R. X Mad. 94.
Id. XIV Bom. 102.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 33. Deposition of Plaintiff's 4th witness given on 5th October 1892.—*concluded.*

No. 34. Deposition of 1st witness for Defendant given on 6th October 1892.

(1.) Damina Venkatarayanin Garu.

(2.) Damina Timmarayanin Garu.

(3.) Inuganti Sitaramayya.

I cannot remember any other names. One of the *purohits* was Kotenkalapudi Ramadas.

The proclamation of gift was made on the first day of the marriage. The auspicious moment (*lagnam*) for the marriage was at night. I don't know whether there was any betrothal ceremony. I have a pension of Rs. 5 from the Bobbili Rajah. I served the Rajah for over fifty years.

(Signed) H. R. FARMER,
District Judge.
5—10—92.

No. 34.

Deposition of Defendant's 1st witness given before the District Judge.

IN THE COURT OF THE DISTRICT JUDGE, VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

1st Witness for Defendant.

Name of witness	...	...	Maremonda Lakshmi Narisimhulu.
Father's name...	...	...	Maremonda Ramanna.
Residence ...	...	...	Chipurupalli.
Caste ...	...	...	Brahmin.
Age ...	...	...	57.
Occupation ...	...	...	Musaddi.

Deposes on solemn affirmation:—

I was employed for about ten years under the adoptive mother of the Plaintiff. Her name was Lakshmi Chellayyammi. She was Rani, holding the Bobbili estate for about thirteen years. I was an Amin under her for over two years, and her private vakil for seven or eight years. She could write. I know her signature. I have often seen her sign and can identify her signature.

I see a letter, dated 18th March 1874, from the Rani to the Collector. The signature to this is the genuine signature of the Rani. When the Plaintiff attained his majority in 1881, he, on the strength of a compromise decree, obtained possession of the Bobbili estate, and managed it since then.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 34. Deposition of 1st witness for Defendant given on 6th October 1892.—*concluded*

Cross-examined:—The Rani was *gosha*. She had no objection to seeing me. She used also to see her native doctor, Netete Simhachelum and Kotenkalapudi Venkata Krishna Somayajulu, a *purohit* and clerk, and some other clerks. The Rani was 39 years old when she died. She used to get papers read before she signed them. Sometimes I used to take papers for her to sign, sometimes Neteti Simhachelum took them, and sometimes the *purohit* Somayajulu. From 1879 I used to see the Rani. Before that, I never saw her sign. In 1878 or 1879, the Rani and the Plaintiff were not on good terms. I do not remember any misunderstanding between the Plaintiff and the Rani before 1878. I was employed by the Bobbili Rani's Dewan Inuganti Sitaramasvami in 1874. I entered the Rani's service in 1877. I was a private servant of the Dewan before. In 1887 or 1888 after the Rani's death, the Plaintiff gave me written notice that he would charge me with criminal breach of trust in respect of Rs. 70,000. In a suit by the Dewan, Damira Appayya, against the Plaintiff, I gave evidence against the present Plaintiff and others and instructed the Dewan's Pleader.

I satisfied the Rajah that I was not accountable for Rs. 70,000 as I produced the Rani's receipts.

(Signed) H. R. FARMER,
District Judge.

6—10—1892.

No. 35.

No. 35. Deposition of Defendant's 2nd witness given on 6th October 1892.

Deposition of Defendant's 2nd witness given before the District Judge.

IN THE COURT OF THE DISTRICT JUDGE, VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

2nd Witness for Defendant.

Name of witness	...	...	Parinum China Venkata Rao.
Father's name	...	...	Parinum Koneti Rao.
Residence	...	...	Vizagapatam.
Caste	...	...	Brahmin.
Age	...	...	48 years.
Occupation	...	...	Musaddi.

Deposes on solemn affirmation:—

I am a clerk in the Collector's office and attend to receipt and despatch of Telugu correspondence for the last 28 years. I used to see the letters which came from the Bobbili Rani after 1884. I can identify her signature. Before

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 35. Deposition of Defendant's 2nd witness given on 6th October 1892.—*concluded.*

that too I used to see her signature on letters. After 1884, I was in sole charge of the correspondence. Before 1884, I was not in charge of the received papers, but sat next the clerk who was.

I can identify the initials of the late Mr. Daniel who acted as Collector of Vizagapatam.

Cross-examined:—Before 1884, I had only to attend to despatch work. In the absence of the clerk who attended to papers received, I attended to his work. I used to examine the signatures on papers received.

The Rani used to sign Sri Rajah Lakshmi Chellayyammi Bahadur of Bobbili Ranigari *Vaalu*. I can't say whether she varied this style of signature. I was never her gumastah. I never saw her sign, or got a letter from her.

I see a letter, dated 18th March, 1874. The signature is genuine—(after hesitation).

Re-examined:—The initials in this letter are those of the then Acting Collector, Mr. Daniel. I made a mistake in giving 1884 as the year when I began to attend to papers received. It was in 1880 that I first undertook this work.

6—10—92.

(Signed) H. R. FARMER,
District Judge.

No. 36. Deposition of Defendant's 3rd witness given on 6th October 1892.

No. 36.

Deposition of Defendant's 3rd witness given before the District Judge.

IN THE COURT OF THE DISTRICT JUDGE, VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

3rd Witness for Defendant.

Name of witness	...	...	Kotagiri Srinivasa Rao.
Father's name	...	...	Kotagiri Subbayya.
Residence ...	...	...	Vavilivalsa.
Caste ...	...	...	Velama.
Age ...	...	...	53 years.
Occupation ...	...	...	Inamdar.

Deposes on solemn affirmation:—

I was the manager of the plaint estate for 30 years until the Court of Wards took charge. I served under the 1st Defendant and her husband. The late Rani

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 36. Deposition of Defendant's 3rd witness given on 6th October 1892.—*concluded.*

of Bobbili used to write letters to Inuganti Sitaramasvami, the 1st Defendant's husband, and to the 1st Defendant as they are her relations. I used to see the letters. I can identify her signature.

Cross-examined:—I have land in Chidikada given me by the husband of the 1st Defendant. I get Rs. 350 yearly rent for it. I never saw the Bobbili Rani sign. She used to sign as follows:—Maharajah Sri Rajah Lakshmi Chellayyammi Bahadur Bobbili Samastanam Vagaira Rani Gari *Cheyvral*.

Re-examined:—I see the letter of the 18th March, 1874, to the Collector.

The signature thereto is the genuine signature of the late Rani of Bobbili.

(Signed) H. R. FARMER,
District Judge.

6—10—1892.

No. 37.

No. 37. Deposition of Defendant's 4th witness Venkata Sveta Chalapati Ranga Rao Bahadur, given on 10th October 1892.

Deposition of Defendant's 4th witness given before the District Judge.

IN THE COURT OF THE DISTRICT JUDGE, VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

4th Witness for Defendant.

Name of witness	...	...	Venkata Sveta Chalapati Ranga Rao.
Father's name	...	...	Sitaramakrishna Rayadappa Ranga Rao Garu.
Residence ...	...	...	Bobbili.
Caste ...	...	...	Velamavaru.
Age ...	...	...	30 years.
Occupation ...	...	...	Zamindar of Bobbili.

Deposes on solemn affirmation.

I was born in 1862. I was taken in adoption when nine years old. I attained my majority when 18 years old in 1880. In June 1881 I took charge of my Zamindari. The Dewan took charge of the records, accounts and the office. I pass the accounts, but I do not scrutinize records. I never sign an account without examining it. I look into the records concerning the current business which I transact. I can't say when I first heard of the Chidikada Estate. I

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 37. Deposition of Defendant's 4th witness Venkata Sveta Chalapati Ranga Rao Bahadur, given on 10th October 1892.—*continued.*

can't say for certain when I first heard that that estate had been given to Rajagopal Rao. I might have heard of the gift from my boyhood. Two or three years ago, I heard that this estate was taken back by my adoptive paternal grandfather, Sveta Chalapati Ranga Rao. At the same time, I heard that it had been regranted by my grandfather to Inuganti Sitaramasvami. I know the 1st Defendant Bhavayyammi from my boyhood. I saw her four times altogether. I know from my youth that she has been enjoying the Chidikada Estate. I inquired form the Dewan, on the strength of what I had heard from the late Rajah of Pittapur, how the Defendant had become possessed of Chidikada. It was in September 1888, that the Pittapur Rajah spoke to me on this subject, as I was returning from Venkatagiri *viâ* Pittapur. He told me I should take the estate from Bhavayyammi and give her maintenance, because it had been granted by my paternal grandfather to her husband. The late Pittapur Rajah was the Defendant's younger brother. I and the Pittapur Rajah and Bhavayyammi were present during this conversation. Bhavayyammi, on hearing this, said "As you please." I returned to Bobbili and instructed my Dewan to ascertain and report under what circumstances and conditions the Chidikada Estate had been granted. I did not write these instructions. No one is allowed to be present when I have interviews with the Dewan. So, no one was present. He produced before me what papers he could find. I ascertained from the papers produced that the estate had, in the first instance, been granted to my maternal grandfather, and that, on his death, my paternal grandfather resumed it irregularly from my mother's mother and again granted it to Inuganti Sitaramasvami. As I understood that the gift to my maternal grandfather Rajagopal Rao was an absolute (యశ్శేష వినియోగముచేసుకొనుటకు) gift, it appeared to me that, in taking it back from his widow, my paternal grandfather acted irregularly. The villages Purli, Billani Tokalavalsa, Devudalla, Mogilivalsa, Latchannavalsa, Bhavilivalsa, and Kumiré, belong to my Zamindari. They were never, as far as I know, alienated from the Zamindari. From the second year after I came to Bobbili, that (is) from 1873 or 1874, I had some slight misunderstanding with my adoptive mother. She used rarely to write to me. I used to see her signature, but paid no particular attention to it. I forget whether I ever saw her full signature. She used to initial letters to me. I can't deny that the signature on the letter of the 18th March 1874, is that of my mother. I cannot say whether or not it is hers. I do not know of a suit brought by my mother in 1874 about Chidikada. Up to date I do not remember to have heard of such a suit. I hear the plaint read. I mentioned this suit in my plaint, but I forget about it. My subordinates give instructions for drawing up plaints. It was not until November or December 1888, when my Dewan brought papers on my instructions, and with reference to what the Pittapur Rajah had told me, that I first heard of my mother's Suit No. 2 of 1874 mentioned in paragraph 6 of the plaint. I was on speaking terms with my mother, but only rarely spoke to her. We never spoke of the Chidikada Estate. It was only after seeing the records in November or December 1888, that I ever spoke about the Chidikada Estate. Kotenkalapudi Venkatakrishna Somayajulu was a *purohit*, and he has been here, on my orders, to instruct my pleaders. He has been in our employ from the time of my grandfather. Once or twice before this suit, I sent him on Court busi-

Deputy Registrar.

ness. Bhavayyammi, the first Defendant, is at Bobbili. She came to live there shortly before the institution of this suit. My manager Ranganayakulu Patrudu was her guardian on behalf of the Court of Wards. This was some months or some years ago. After 1878, I and my mother became on worse terms than before. When I signed the plaint in which it is stated that my mother's conduct was fraudulent and illegal, I did so because my legal advisers said that the acts which I could prove, were so. I believed she bribed to enquire me as she was on bad terms with me. Only the accounts now produced are forthcoming from amongst those I was summoned to produce. Lakshmi Narasayyammi, the stepmother of my paternal grandfather, told me that it was true that my grandfather had given the Chidikada Estate to Rajagopal Rao and that, on his death, the Zamindar had prevailed on his sister to give up the estate to prevent it going to her husband's reversioners. Subhadrayyammi and Kanthayyammi are not *gosha* to me. Subhadrayyammi never lives in Bobbili now. Kanthayyammi always lived at Vungarada, but for the last two or three years has been coming to Bobbili. Sometimes we change from one apartment to another in the Palace, within ten days after a death.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 37. Deposition of Defendant's 4th witness Venkata Sveta Chalapati Ranga Rao Bahadur, given on 10th October 1892.—*concluded.*

(Signed) H. R. FARMER,
District Judge.

10—10—1892.

No. 38.

No. 38. District Judge's Notes, dated 5th October 1892, with two enclosures.

DISTRICT JUDGE'S NOTES.

Original Suit No. 39 *of* 1890.

The Plaintiff admits the genuineness of documents Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15 at page 7 of the printed record (printed hereunder as enclosure No. I) which he produced to-day. No. 14 not admitted.

Numbers 1—13
Exhibits 1—13.

The Defendant admits the genuineness of the following documents described by the numbers at pages 5 and 6 of the printed record (printed hereunder as enclosure No. II) put in to-day by Plaintiff. Nos. $\frac{A}{2}, \frac{B}{3}, \frac{C}{4}, \frac{D}{5}, \frac{E}{6}, \frac{F}{7}, \frac{G}{8}, \frac{H}{10}$ and $\frac{J}{11}$, thus admitting all except 1 and 9.

Nos. 1 and 9 the Defendant says are forgeries.

(Initialled) H. R. F.

5—10—1892.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 38. District Judge's Notes, dated 5th October 1892, with two enclosures.—*continued.*

Enclosure No. 1 to 38.

IN THE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

List of documents filed on behalf of Defendant in the above suit.

No.	Dates.	Particulars.
1	Manmadha, 1835-36...	Original sale-deed executed by Mandapaka Jagannayakulu in favor of Sveta Chalapati Ranga Rao, Zamindar of Bobbili.
2	7th January 1835 ...	Original sale-deed executed by Krishnabhupati Deo, Zamindar of Madugula in favor of the said Sveta Chalapati Ranga Rao Garu.
3	7th September 1848...	Public copies (two) of extracts of Register regarding the transfer of Chidikada and Jagannadhapuram estates to Inuganti Rajagopal Rao Garu.
4	27th September 1848.	Original order issued by the Collector to the village officials of Chidikada Jagannadhapuram.
5	Kilaka, 1848-49 ...	Original order issued by the said Sveta Chalapati Ranga Rao to Sasapu Papi Nayudu.
6	19th February 1862 ..	Original sale-deed executed by Sveta Chalapati Ranga Rao Garu in favor of Inuganti Sitaramasvami Garu, the late proprietor of the Chidikada estate.
7	29th July 1862 ...	Original order issued by Sveta Chalapati to the village officials of Jagannadhapuram.
8	29th July 1868 ...	Original order issued by Sveta Chalapati to Putrevu Kondalrayudu.
9	Dundubhi ...	Original letter addressed by Inuganti Sitaramasvami Garu, the late Dewan of Bobbili, to Inuganti Sitaramasvami, the late proprietor of the Chidikada estate.
10	Dundubhi ...	Public copy of the letter addressed by Sitaramakrishna Rayadappa Ranga Rao Garu to Inuganti Sitaramasvami Garu, the late proprietor.
11	5th April 1866 ..	Original letter addressed to the Collector by Sitaramasvami Garu, the proprietor, with vakalat.
12	15th April 1866 ...	Original letter addressed to the Collector by Sitaramakrishna Rayadappa Ranga Rao Garu.
13	23rd April 1866 ...	Public copy of Registers extract.
14	18th March 1874 ...	Original letter from the Bobbili Rani.
15	27th September 1848..	Original letter addressed by the Agent to the Governor to Rajah Inuganti Rajagopal Rao.

VIZAGAPATAM,
21*st September* 1891.

(Signed) P. VENKATAKRISHNAMMA NAYUDU,
Counsel.

(True copy).

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 38. District Judge's Notes, dated 5th October 1892, with two enclosures.—*continued.*

Enclosure Nos. 2 to 38.

Original Suit No. 39 of 1890 on the file of the District Court of Vizagapatam.

List of documents presented for the Plaintiff, Sri Rajah Sveta Chalapati Ranga Rao Bahadur, Rajah of Bobbili, &c.

Serial No. of document.	Date of document.	Description of document.	What is proved by the document.	Remarks.
1	2	3	4	5
1	5th April 1848.	Copy of the *patta* which is executed and given by Sri Rajah Sveta Chalapati Ranga Rao Bahadur, Zamindar of Bobbili, in favor of Sri Inuganti Rajagopala Rayanin Garu and which is in the office of the Plaintiff's *Samastanam*	This document confirms that the suit Chidikada Estate was given in charity to Sri Inuganti Rajagopala Rayanin Garu by Sri Rajah Sveta Ranga Rao Bahadur, Zamindar of Bobbili.	Office copy of Plaintiff's *Samastanam.*
2	A 7th September 1848.	Extract from the Register of permanently settled estates of the Vizagapatam District ...	Do. ...	Public copy.
3	B 27th September 1848.	*Dheemut* (a temporary order for a person's taking possession of property transferred before official documents are finally granted) written by the Governor's Agent to the Karnams and Nayiks of Chidikada and other villages	Do. ...	Do.
4	C 27th September 1848.	Letter written by the Governor's Agent to Sri Inuganti Rajagopala Rayanin Garu ...	Do. ...	Do.
5	D Friday, the 3rd Chaitra Sudha.	Letter written to the Governor's Agent by Sri Rajah Sveta Chalapati Ranga Rao Bahadur.	The said document establishes the fact that Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu and Sri Inuganti Gopayyammi Garu colluded to prevent the suit Chidikada Estate from vesting in the heirs of Sri Inuganti Rajagopala Rayanin Garu.	Do.
6	E Friday, the 7th Chaitra Sudha of Nala. 11th April 1856.	Letter written to the Governor's Agent by Sri Inuganti Gopayyami Garu	Do. ...	Do.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 38. District Judge's Notes, dated 5th October 1892, with two enclosures.—*concluded.*

Serial No. of document.	Date of document.	Description of document.	What is proved by the document.	REMARKS.
1	2	3	4	5
7	F 14th May 1856.	Letter written by the Governor's Agent to Sri Rajah Sveta Chalapati Ranga Rao Bahadur.	Show that Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu gave away the suit estate to Sri Inuganti Sitaramasvami Garu.	Public copy.
8	G 23rd April...	Extract from the Register of permanently settled estates of the Vizagapatam District.		
9	6th February 1874.	Registered *patta* of gift executed by Sri Inuganti Bhavayyammi Garu (1st Defendant) in favor of Sri Rajah Lakshmi Chellayammi Bahadur Garu.	Establish the fact that the Plaintiff's mother should enjoy the suit Chidikada Estate after the death of the Defendant.	Do.
10	H 19th August 1874.	Petition of withdrawal presented by Sri Rajah Lakshmi Chellayammi Bahadur Garu, Plaintiff in Original Suit No. 2 of 1874 on the file of the Vizagapatam District Court.		
11	J 11th July 1890.	Endorsement given by the Collector of Vizagapatam to the effect that the vakalutnama executed by the Zamindar of Bobbili to Tharigoppula Srinivasa Rayudu Garu for having the Chidikada Estate registered in favor of Sri Inuganti Rajagopala Rayanin Garu and that the *patta* executed on the 5th April 1848 by the Zamindar of Bobbili in favor of the said Rajagopala Rayanin Garu to the effect that the said Chidikada Estate was granted to him (Rajagopala Rayanin Garu) in charity are not in the record ...	19th November 1890 ...	Do.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 39. District Judge's Notes.

No. 39.

DISTRICT JUDGE'S NOTES.

Original Suit No. 39 *of* 1890.

The Plaintiff contended that, apart from the question of fraud, his suit would not be barred until twelve years had elapsed from the death of the last female holder in May 1877. He says that the title obtained in 1856 by his paternal grandfather must be held to have been derived from the widow in case it is found that the widow had an estate in the plaint land, and that consequently (*Sambasiva* v. *Raghava*[1]) the possession of his (Plaintiff's) paternal grandfather and of the Defendant was not adverse to him (Plaintiff) as reversioner.

The Defendants say that the possession derived from the original transferee's widow by Plaintiff's grandfather was obtained by undue influence as shewn in the plaint, and consequently that the principle laid down in *Sambasiva* v. *Ragava* shows that the suit is barred. It seems to me that the Plaintiff's case does not imply unilateral fraud on the widow but collusion by the Plaintiff's paternal grandfather and his maternal grandmother against him (Plaintiff) as reversioner, and that such being the case, the possession of Plaintiff's paternal grandfather was derived from the widow, and cannot therefore be treated as adverse to him as reversioner. Therefore, supposing the case to come under article 141, I do not think the Plaintiff is barred.

No. 40.

No. 40. District Judge's Notes, 6th October 1892.

DISTRICT JUDGE'S NOTES.

Original Suit No. 39 *of* 1890.

The Plaintiff's pleader offered to produce evidence to prove

1. the existence of a written grant and

2. circumstances from which the Court might presume that this grant was unconditional and absolute.

As regards the first point, there does not appear to be any doubt, with reference to sections 64 and 65 of the Indian Evidence Act, that even the existence of a document cannot be proved by secondary evidence unless it comes under one of the exceptions contained in section 65. The Plaintiff admits that the plaint grant does not come under one of the exceptions. I therefore hold that secondary evidence of its existence is inadmissible.

Next, the Plaintiff offers evidence of circumstances from which circumstances he proposes to ask the Court to presume that the plaint grant was unconditional. Such circumstances amount to evidence as defined in section 3 of the Indian Evidence Act, and the words of exclusion in section 91 are "no evidence shall be given in proof of the terms of such contract."

(1) I. L. R., XIII Mad., 512.

I therefore rule that this circumstantial evidence is inadmissible for the same reason as I ruled yesterday that direct oral evidence of the terms of the document was inadmissible.

6—10—1892. (Signed) H. R. FARMER.

After the secondary evidence as to the terms of the written grant of 1848 had been excluded, the Plaintiff relying on section 8, Transfer of Property Act, stated that it must be presumed that the grant which Defendant admits was made, was absolute, and that it vested on Defendant to prove the restriction which he set up. To this the Defendant answered that the Plaintiff alleged fraud and that it was for him to prove it. The Plaintiff met this by stating that the transfer by Gopayyammi, the holder of a limited estate (life estate) of an absolute estate to her brother in 1856 was in the face of it a fraud on the reversionary heirs of Gopayyammi's husband and that he (Plaintiff) is one of the heirs thus defrauded. The Defendant when again asked if he was ready to prove the restriction which he alleges in the grant of 1848 failed to quote any authority to show that, under any circumstances, it did not rest on him to prove the restriction. It was, therefore, ruled that it rested on the Defendant to prove the restriction which he alleged in the gift of 1848.

6—10—1892. (Signed) H. R. FARMER.

The Defendant asked the Court to file as exhibit XVII a public copy of a letter, dated 14-5-1856, written by the Collector to Plaintiff's paternal grandfather, a public copy of which was produced by the Plaintiff. This document has not yet been filed as an exhibit by the Plaintiff and may not be admitted in evidence on his side. The Plaintiff objected to the Defendant being allowed to exhibit his letter. It appears to me that the Defendant in exhibiting this letter is in effect merely relying on an admission by the Plaintiff who produced another copy of the same letter. This, I think, Defendant is entitled to do, though no doubt he might have summoned the Collector to produce the original. I therefore resolve to allow the Collector's letter of 14-5-1856 to be filed as Defendant's exhibit XVII.

6—10. (Signed) H. R. FARMER.

The Defendant files as exhibit XVIII the register kept under section 8, Regulation XXV of 1802 of the transfers of permanently settled estates, relying on an entry at page 122 of the transfer of plaint property from the name of Rajagopal to that of Sveta Chalapati, dated 3rd May 1856.

6—10—1892. (Signed) H. R. FARMER.

No. 41.

No 41. District Judge's Notes, 10th October 1892.

DISTRICT JUDGE'S NOTES.

Original Suit No. 39 *of* 1890.

The Defendant put in (a) letter from the Collector to the Court of Wards. The Plaintiff objected with regard to section 139.

As there can be no doubt as to the genuineness of this document and as it comes from the Collector's custody, I do not think the provisions of section 139 are intended to apply though the Collector represents the Defendant, as also the Court of Wards.

10—10—1892. (Initialled) H. R. F.

Deputy Registrar.

No. 42.

No. 42. District Judge's Notes, 10th October 1892.

Original Suit No. 39 *of* 1890.

DISTRICT JUDGE'S NOTES.

The following question was put to 4th witness for Defendant (the Plaintiff):—"Did you send your manager Ranganayakulu Patrudu who was at that time the guardian of the Defendant to induce her to enter into a compromise?"

The Plaintiff's pleader objects to this question being answered. The Defendant's Counsel was then asked under what issue the question was relevant. He said it was relevant under the 2nd issue regarding limitation. His argument was that an attempt to compromise afforded a presumption that the Plaintiff knew that the suit was time barred. Counsel did not quote any section of the Evidence Act. Section 11 (2) seems to me to be the only section under which, if at all, the question could be asked, and I do not consider that this section justifies the question, for I do not think that an attempt to compromise indicates that the Plaintiff knew that the suit was time barred or that it makes the fact that Plaintiff had, more than three years before the suit, knowledge of the fraud which he alleges "highly probable." I, therefore, disallow the question as irrelevant.

(Signed) H. R. FARMER.

10—10—1892.

No. 43.

No. 43. District Judge's Order, 18th November 1892, with one enclosure.

District Judge's Order rejecting Plaintiff's documents.

IN THE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

These ten documents have been put in by Plaintiff to shew that the grant alleged in the plaint was absolute. They are rejected under section 142, Civil Procedure Code, as being inadmissible in evidence for the following reasons.

An unauthenticated copy of the deed of gift, dated 5th April 1848, or grant which the Defendants say was conditional, has been put in by Plaintiff, alleging that the original is in the possession of Defendants.

The Defendants deny that such a document ever existed. The copy produced by Plaintiff contains an entry showing that the original was on an insufficient stamp. It was, therefore, held that secondary evidence was inadmissible to shew the existence or terms of the grant.(1) On these grounds the documents entered in the subjoined list (printed as an enclosure to this number), and produced by Plaintiff were rejected and ordered to be dealt with under sections 140 and 142.

(1). IV Mad. H.C.R., 312 & I. L. R., VII Mad., 440.

(Signed) H. R. FARMER,
District Judge.
18—11—92.

Enclosure to No. 43.

Plaintiff's documents in Suit No. 39 of 1890 on the file of the District Court of Vizagapatam.

Mark of document.	Date of. Document.	Date of. Presentation.	Date of. Filing.	Amount if any.	Particulars as to execution.	Issue to which it relates.	Remarks. By whom produced.	Remarks. For whom filed.	Remarks. Admitted or proved. If proved, by whom.
1	7-9-48 ...	29-11-90...	...	...	Certified extract from the Register of permanently settled estates showing that the suit estate has been transferred to Inuganti Rajagopal Rao. ...	1st issue.	Plaintiff's pleader.	...	...
2	27-9-48 ...	Do. ...	...	...	Certified copy of *dheemut* written by the Agent to the Governor at Vizagapatam to the Kurnams and Nayiks of Chidikada estate, calling upon them that they should hereafter pay sists &c. to Inuganti Rajagopal Rao as the estate has been gifted to him (Rajagopal Rao) by the then Zamindar of Bobbili	Do. ...	Do. ...	...	...
3	Do. ...	Do. ...	...	...	Certified copy of letter written by the agent to the Governor, Vizagapatam, to Inuganti Rajagopal Rao, stating that he should pay peishcush for Chidikada &c. villages, as they have been transferred to him by the then Zamindar of Bobbili and that a *dheemut* (Exhibit B) (2) has also been written to the Kurnams and Nayiks ...	Do. ...	Do. ...	...	...
4	7th Chaitra Sudha. Year not given. Date of receipt 19-4-56.	Do. ...	...	...	Certified copy of letter written by (name of the writer not given but it seems that it was written by) the then Zamindar of Bobbili to the agent to the Governor at Vizagapatam, stating that Chidikada &c. villages have been gifted to Inuganti Rajagopal Rao on condition that they should revert to him (Zamindar of Bobbili) if the latter dies without male issue, that the said Rajagopal Rao died without male issue, that, in consequence, the estate should be again registered in his name and that the widow of the said Rajagopal Rao has also written to the above effect ...	Do. ...	Do. ...	...	...
5	11-4-56...	Do. ...	...	...	Certified copy of letter written by Inuganti Gopayyammi to the Agent to the Governor, Vizagapatam, to the same effect as Exhibit D (4) ..	Do. ...	Do. ...	...	...
6	14-5-56 ...	Do. ...	...	...	Letter from Agent to the Governor at Vizagapatam to the then Zamindar of Bobbili, stating that Chidikada &c. 3 villages have been registered in his (Zamindar's) name as requested by him and Gopayyammi by Exhibits D and E (4 and 5) respectively	Do. ...	Do. ...	...	...
7	23-4-18 ×	Do. ...	...	...	Extract from the Collector's Register of the Chidikada and Jagannadhapuram	...	...	...	...
8	6-2-74 ...	Do. ...	...	...	Certified copy of the deed of gift executed by the 1st Defendant to Plaintiff's late adoptive mother for the suit estate	Do. ...	Do. ...	...	...
9	29-8-74 ...	Do. ...	...	...	Certified copy of withdrawal petition presented by the Rani of Bobbili (Plaintiff's late adoptive mother) withdrawing her suit, Original Suit No. 2 of 1874, on the file of this Court	Do. ...	Do. ...	...	...
10	11-7-90 ...	Do. ...	...	...	Endorsement of the Collector stating that a Vakalut written by the Zamindar of Bobbili, dated 16-8-48, and a *patta*, dated 5-4-48, executed in Rajagopal Rao's favor, are not in record	Do. ...	Do. ...	...	...

(Initialled) H. R. F.,

District Judge.

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RECORD.

PART I.

In the District Court of Vizagapatam.

No. 44. Decree of the District Court, 18th November 1892.

No. 44.

Decree of the District Court dismissing Plaintiff's suit with costs.

IN THE COURT OF THE DISTRICT JUDGE AT VIZAGAPATAM.

Friday, the eighteenth day of November 1892.

Original Suit No. 39 *of* 1890.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, son of Sri Raja Sitaramakrishna Rayadappa Ranga Rao Bahadur Garu; age 28 years, and Rajah of Bobbili *Samstanam*, &c., residing at Bobbili ... ... *Plaintiff.*

versus

1. Sri Inuganti Bhavayyammi Garu, widow of Sri Inuganti Sitaramasvami Garu; age 51 years and a ward under the Court of Wards, represented by
2. The Collector of Vizagapatam, Agent to the Court of Wards. } *Defendants.*

Suit to recover the proprietary estate of Chidikada Jagannadhapuram fetching Rs. 4,855 a year together with mesne profits of Rs. 38,985 for 1887, 1888 and 1889, and costs of the suit as well as any other relief the Court may see fit to grant.

This suit coming on for final hearing before H. R. Farmer, Esquire, District Judge, in the presence of Mr. Sice, A. Suryanarayana Rao Pantulu Garu and P. Seshagiri Rao Pantulu Garu, Vakils for Plaintiff, and Mr. P. Narayanasvami Chetti, Counsel, and B. Suryanarayana Sastri Garu, Vakil for Defendants: It is ordered that the Plaintiff's suit be dismissed. It is further ordered that Plaintiff do pay Defendants' costs.

Memorandum of Costs.

Costs incurred by the Plaintiff.

	Rs.	A.	P.
Stamp for plaint ...	1,775	0	0
Do. for *Vakalutnama* ...	0	8	0
Process batta	10	0	0
Witnesses' batta ...	203	12	0
Stamp on documents, &c...	3	0	0
Commissioner's fee ...	50	0	0
Vakils fee on Rs. 87,535...	1,000	0	0
Total Rs. ...	3,042	4	0

Costs incurred by the Defendants.

	Rs.	A.	P.
Stamp for Vakalutnama ...	0	8	0
Do. for Petitions ...	2	8	0
Process batta	10	8	0
Witnesses' batta ...	280	8	0
Stamps on documents ...	2	8	0
Copying charges ...	0	14	0
Vakil's fee on Rs. 87,535 ...	1,000	0	0
Total Rs. ...	1,297	6	0

Given under my hand this eighteenth day of November 1892.

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.

No. 45.

Judgment of the District Court dismissing the Plaintiff's suit with costs.

IN THE COURT OF THE DISTRICT JUDGE AT VIZAGAPATAM.

Friday, the eighteenth day of November,

One thousand eight hundred and ninety-two.

PRESENT:—H. R. FARMER, ESQUIRE,

District Judge.

Original Suit No. 39 *of* 1890.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, son of Sri Rajah Sitaramakrishna Rayadappa Ranga Rao Bahadur Garu; age 28 years, and Rajah of Bobbili Samstanam, &c., residing at Bobbili. *Plaintiff.*

versus

1. Inuganti Bhavayyammi Garu, widow of Sri Inuganti Sitaramasvami Garu; age 51 years and a ward under the Court of Wards represented by
2. The Collector of Vizagapatam, Agent to the Court of Wards. } *Defendants.*

Plaintiff sues to recover from the Defendants the estate of Chidikada Jagannadhapuram valued, for purpose of Court fees, at Rs. 1,29,950 and yielding an income of Rs. 12,995 per annum with Rs. 38,985 being the mesne profits for the years 1887, 1888 and 1889.

2. The marginally noted table shows the relationship of the parties. Plaintiff's case is as follows:—

On 5th April 1848 the then Rajah of Bobbili, Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu, made a gift of the suit estate under a document styled a *patta* to I. Rajagopal Rao, who was both the paternal aunt's son, and sister's husband of the donor, and got mutation of names made in the Collector's register on the 7th September 1848; the donee Rajagopal Rao died on 4th April 1856, leaving a widow Gopayyammi and a daughter Lakshmi Chellayyammi, aged 8 years, who were both under the donor's protection, after the death of the donee. The donor, in order to prevent the estate from passing to the reversioners of the donee after the death of the donee's widow and daughter, invented a story that at the

1. Sveta Chalapati, late Rajah of Bobbili, grantor. = 2. Gopayyammi, sister of grantor, married Rajagopal Rao, 1st transferree.
   - 3. Another sister (no name given).
   - 4. Son Rayadappa married his cousin No. 5.
   - 5. Chellayyammi married No. 4.
   - 6. Bhavayyammi = 7. Sitaramasvami, 2nd transferree. widow of No. 7. 1st Defendant.
   - 8. Son Plaintiff adopted by widow under authority.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

time of the gift, there was a condition that the estate should revert to the donor, if the donee died without male issue, and to support this story got his sister—the donee's widow—to write a letter to the Collector on 11th April 1856, stating that, in accordance with this understanding as to failure of male issue, her brother, the donor, might be again registered as the proprietor. The donor also addressed a similar letter to the Collector. On the strength of these two letters, the Collector re-transferred the estate in his register to the name of the donor on 16th May 1856. The statement as to the existence of this condition was false and was fraudulently put forward. On 19th February 1862 the donor transferred this estate under a *patta* to the 1st Defendant's late husband I. Sitaramasvami, who was the son of another sister of the donor. This second transferee died in September 1873. In 1860 Lakshmi Chellayyammi, the daughter of the first donee, Gopal Rao, was married to the donor's son Rayadappa Ranga Rao Bahadur, the adoptive father of the Plaintiff, and this Rayadappa succeeded his father, the said donor, in 1862, and died on 18th May 1868, having authorized his wife, the said Lakshmi Chellayyammi, to adopt a son. Lakshmi Chellayyammi Garu succeeded on her husband's death to the estate of Bobbili and adopted Plaintiff in February 1871. The Plaintiff attained his majority and took charge of the estate of Bobbili in 1881. Gopayyammi, the widow of the 1st transferee, died on 21st of March 1872 and Plaintiff's adoptive mother was, under the Hindu Law, entitled, as daughter of the 1st transferee, to succeed to the suit estate, but in consequence of her being a close relation (cousin) of the second transferee, she not only neglected to sue and recover the estate from the second transferee, but further entered into an agreement with the second transferee's widow, the 1st Defendant, permitting her to continue to enjoy the suit estate for her life on the understanding that she (Plaintiff's mother) was to take the estate on her (1st Defendant's) death, and obtained a document to that effect from her (1st Defendant) on the 6th February 1874, and subsequently brought in the District Court a suit (Original Suit No. 2 of 1874) to obtain a declaration of the validity of the said agreement. The Plaintiff's adoptive mother at the earnest request of the 1st Defendant, who then wanted to adopt a son, withdrew the said suit, renouncing all her rights to the suit estate, and allowing the 1st Defendant to deal as she pleased with the property. The Plaintiff's mother died on 7th of May 1887 when the right of succession, to the estate, as son of the daughter of the first donee, devolved on Plaintiff. Hence the suit.

3. Defendants admit the transfer of the estate to the first transferee, but deny the existence of any writing (*patta*) and state that the date of transfer was 15th of August 1848 and not 5th of April 1848; they also deny that the 1st transferee Rajagopal Rao was the absolute owner of the estate, and that the said transferee's daughther (Plaintiff's mother) and widow (Plaintiff's maternal grandmother) were under the protection of the Plaintiff's paternal grandfather (the transferor, the late Rajah of Bobbili). They also admit the re-transfer in the Collector's register of the estate, to the transferor Rajah Sveta Chalapati Ranga Rao Bahadur Garu, but deny any fraud and collusion in such retransfer.

They assert that the suit estate was conveyed to the 1st Defendant's late husband, Sitaramasvami, not as a gift, but for good and valuable consideration;

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

such consideration comprising the income derived by the said Sitaramasvami from *Mustazari* (leases) and other sources; profits annually obtained from the mokhasa village Devadallu, the rented village of Mogilivalsa, his share in the villages Komera, Purli, Vavilavalsa, Latchannavalsa, Thokalavalsa and Bellani; the ready money allowance granted to him every year, and a Government promissory note, No. 2829 of the year 1842-43 for Rs. 11,000; and say that as the late Rajah (transferor) accepted the abovementioned property from the 1st Defendant's husband as a consideration for transferring the suit estates, and as the 1st Defendant's husband consequently became a *bonâ fide* purchaser of the suit estates, the Plaintiff is estopped from bringing this suit; that the suit is barred by limitation, the possession of the estate having been adverse to Plaintiff's claim since April 1856; that it was neither close relationship, nor affection, but dread of prosecution for forgery which led the Plaintiff's mother to withdraw Original Suit No. 2 of 1874 of this Court's file, which was based upon a document, the execution of which was immediately impugned by 1st Defendant as a forgery; that the Plaintiff is not entitled to mesne profits, and that in case a decree is passed in Plaintiff's favor, the Court should also decree that Plaintiff should restore the property taken by his paternal grandfather from 1st Defendant's husband, with damages.

4. The following issues were framed by the Court:—

(1). Was the grant in 1848 by the then Zamindar of Bobbili in favor of Rajagopal Rao an unconditional grant?

(2). Is the suit barred by limitation?

(3). If Plaintiff be found entitled to recover the estate, under what conditions, if any, is he entitled to recover it?

(4). Is Plaintiff estopped from bringing this suit?

5. The usual lists of documents filed and witnesses examined are appended.

6. The findings on the issues are:—

(1). The grant was conditional.

(2). The suit is not barred by limitation.

(3). If the Plaintiff be found entitled to recover the estate, he can do so only on restoring to the 1st Defendant the consideration which passed to Plaintiff's paternal grandfather from the 1st Defendant's husband.

(4). The Plaintiff is estopped from bringing the suit.

7. I think it will be most convenient to deal with the 4th issue (Estoppel) first.

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

The 1st Defendant's title deed was produced by her counsel and is filed as Defendant's exhibit VI. It recites the consideration which passed from the transferee (1st Defendants' husband) to the transferor, Plaintiff's paternal grandfather. The Plaintiff does not deny that this consideration did pass. But in the document it is stated that the transferor "gives" the property, in consideration of transferring which he acknowledges having received the consideration mentioned. The Plaintiff's Pleader on the strength of the use of the word "gives" contended that the document was not a sale, but a gift. The facts recited, however, show the real nature of the transaction, and the application to this transaction of an inapplicable term, cannot, I apprehend, alter the nature of the transaction. Thus the Plaintiff's paternal grandfather induced the 1st Defendant's husband to part with the consideration recited in the Defendants' title deed, on the strength of his (Plaintiff's paternal grandfather's) representation that he (Plaintiff's paternal grandfather) was entitled to deal with the plaint property as his own. The 1st Defendant contends that consequently, with reference to section 115 of the I. E. Act, the Plaintiff, being the representative of his paternal grandfather, cannot be allowed to deny the truth of the representation made by his paternal grandfather to the effect that he was entitled to transfer the plaint estate as his own.

The Plaintiff on the other hand contends that for the purposes of this suit, he is not the representative of his paternal grandfather, but the representative of his maternal grandfather, as whose reversionary heir he claims. I do not think this contention is sound. No doubt the Plaintiff is suing as the heir, not of his paternal, but of his maternal, grandfather. But he is nevertheless the representative of his paternal grandfather; and the words "litigating under the same title" do not occur in the provision of law (section 115, Indian Evidence Act) formulating the doctrine of estoppel in this country. If it were intended that a person might plead, when suing in one capacity, that what he had stated in another capacity was not true, though it had misled his opponent to his cost, this would, I think, have been shown by express words as it is shown in another provision of the law; namely, section 13 of the Civil Procedure Code, which embodies the law of *res judicata*.

It is clear from the Plaintiff's contention that his case is, not only that *he* is not estopped, but that his paternal grandfather if now alive and suing, would not be estopped. Both the person making the declaration, and his representative are placed on the same footing in section 115, Indian Evidence Act, and where one is bound, the other is bound. If the words "litigating under the same title" are to be imported in section 115, they would, as in section 13, C. P. C., apply, it may be presumed, both to the principal and the privies. It was not contended that there was any principle on which, the principal and his representative though treated as one and the same party in section 13, C. P. C., should be treated, each as subject to a different rule in section 115, Indian Evidence Act.

The reason for omitting the words "litigating under the same title" in section 115, Indian Evidence Act, seems sufficiently clear. The doctrine

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

of estoppel is an equitable doctrine aimed at fraud. The doctrine of *res judicata* is intended to prevent loss of time and vexatious litigation. The identity of the point under litigation is essential in the latter, not in the former case. It could hardly be intended that a man should be allowed to say "I misled you it is "true by a misrepresentation when I was representing my estate inherited from A, "but I claim to profit by my fraud now, because I am claiming as the heir of B." I think the case of *Syed Ameer Ali* vs. *Syed Ali* (1) is against this view. There a man, who had made a representation as owner of certain property, was held to be estopped from denying the truth of his statement when litigating under another title, namely, as heir to his brother. Any other interpretation of the law would open the door to the evil which the law of estoppel is intended to suppress. In the present case the question does not arise, whether a person litigating as guardian of another (and so representing him) is estopped from denying the truth of what he has stated in his individual capacity.

In Haydon's case (2) the Barons of the Exchequer said "the office of all Judges "is always to make such construction as shall suppress the mischief and advance "the remedy and to suppress subtle inventions and evasions for continuance of "the mischief *pro privato commodo*, and to add force and life to the cure and "remedy according to the true intent of the makers of the Act *pro bono publico*."

To introduce into a provision of law (section 115, Indian Evidence Act) words which will defeat the object of that law and which seem to have been advisedly omitted, could hardly, I think, be justified in view of the above ruling. There is another consideration which seems to confirm this view. If the present Defendants were in the more difficult position of Plaintiff, and if the Plaintiff were the 1st Defendant in possession, I think the present 1st Defendant would still be entitled to succeed. The Plaintiff says succession opened in 1887. In other words his father would, if alive, have then been in a position to make good to his vendees the title which, according to Plaintiff, he did not possess when he obtained the Defendants' money on the false representation that he did possess it. Section 18 (*a*) of the Specific Relief Act provides that "if the vendor has subsequently acquired any "interest in the property, the purchaser may compel him to make good the "contract out of such interest," and under section 27 Clauses (*b*) and (*c*) of the same Act, I think a similar relief might be obtained against the vendor's representative, irrespective of the manner under which he subsequently obtained such interest. The Defendants' Pleader relied on the cases of *Rungama* vs. *Atchanna* (3), *Lala Parbhu Lal* vs. *Mylne*, (4) *Sarat Chunder Dey* vs. *Gopal Chunder Laha* (5), and *Bhugwandeen Doobey* vs. *Myna Baee* (6). I do not find that any of these cases is on all fours with the present case. In the first case there is no

(1). 5 W. R. 289, Civil Rulings.
(2). 3 Rep. 7 quoted at page 4 Kerr on Fraud, 2nd Edition.
(3). 4 M. I. A., 1.
(4). I. L. R. XIV Calc. 401 at p. 411.
(5). „ XVI „ 143.
(6). 11 M. I. A., 487.

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

mention of estoppel, but it appears from that case that a person cannot be estopped from denying a proposition of law. The second case is to the effect that an execution purchaser, if not a mortgagee, is not the representative of the person whose property he purchases. In the third case it was held that A was not estopped from denying that B had a title to certain property although A had witnessed a mortgage by B of that property, unless it was shown that A when witnessing the mortgage was aware of the invalidity of the mortgagor's title. In the same case it was also held that there could be no estoppel in favour of a person to whom it was not shown that the statement in respect of which an estoppel had been set up, was communicated. The fourth case seems to be similar to the first. In it the acquiescence in the existence of a legal *status* is held not to estop a person from denying that legal *status*. In none of these cases is it said that a person is not estopped if he is not litigating under the title in respect of which he made the statement put forward as an estoppel.

My finding on the fourth issue, therefore, is that the Plaintiff is estopped from bringing this suit.

8. Though a decision on the fourth issue is sufficient for the disposal of the suit, I propose to record findings on the other three issues.—

The first issue is:—

Was the grant in 1848 by the then Zamindar of Bobbili in favor of Rajagopal Rao an unconditional grant?

The Plaintiff produced what he alleged to be the original draft of this grant. It was found from an entry on this draft that the grant itself was insufficiently stamped, as it bore a stamp of eight Rupees instead of a stamp of Rs 50.

As regards the admissibility in evidence of this grant and of secondary evidence (oral, documentary or presumptive) to prove either its existence or terms, the following order was passed:—

"The Plaintiff offered in evidence what purported to be an unauthenticated "copy, said to be the original draft, of a deed of gift of the plaint land, dated "5th April 1848 and executed by the Plaintiff's paternal grandfather in favor "of Plaintiff's maternal grandfather. The Defendants object to the admission "of this document on the ground that it is a copy of a document which was "insufficiently stamped. The copy bears on its face an entry to the effect that "the document of which it is a copy bore a stamp of Rs. 8. The Defendants' "exhibits I and II (admitted by the Plaintiff) show that in 1835 the plaint land "was sold for Rs. 40,000. The document produced and which the Defendants "say is a copy of a document insufficiently stamped, does not contain any men- "tion of the value of the property. It contains an entry to the effect that the "Peshcush or revenue payable to Government was Rs. 4,800. If this could be "shown to be the value of the property, the stamp of Rs. 8 would, under Regu- "lation XIII of 1816, be sufficient. But there is no connection, of which I am "aware, between the revenue payable to Government and the value of the pro-

Deputy Registrar.

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

"perty, except that the former may, to some extent, be an indication of the "latter. The lower the revenue, the higher is the market value of a given piece "of property.

"The fact that the land was sold 13 years previously to the deed of gift for "Rs 40,000 raises a presumption, it appears to me, that the land was, at the time "of the gift, worth at least Rs. 40,000. If so, the deed of gift would require a "stamp of Rs. 50. If it had been stated in the deed of gift that the value of the "property was Rs. 4,800, then it might be argued that, in accordance with the "ruling of the Chief Justice of the Calcutta High Court in the case of *Chandra-* "*kant Mookerjee* vs. *Kartik Charan Chaile* (1), collateral evidence to contradict "this statement would be inadmissible, but the words 'the stamp duty must be "'paid upon what is stated in the instrument, and cannot depend on collateral "evidence' mean, I think, in the present case, that the duty must be paid on what "is stated in the instrument to be the sum representing the value of the property "transferred.

"Even this construction is giving a very liberal interpretation, in "favor of the subject, to the fiscal law relating to the stamp required "on an instrument of gift, for it would allow a person to defraud the stamp "revenue by grossly understating the value. But taking it for the sake of argu- "ment to be an admissible interpretation, I do not, as already stated, find that "the instrument states what the value of the property is.

"Such being the case, I do not find that the Calcutta ruling shuts out the "collateral evidence afforded by the Defendants' exhibits I and II.

"It, therefore, appears to me that in accordance with the rulings in the cases "of *Arunachellum Chetty* vs. *Olagappa Chetty* (2) and *Kopasan* vs. *Shama* (3) no "secondary evidence could be admitted (even on payment of a penalty) of the "contents of the original deed of gift of the 5th April 1848.

"Under the circumstances I hold that, as under section 34, General Stamp "Act (I of 1879), the original document would be inadmissible in evidence, the "secondary evidence offered in the shape of an authenticated copy is inadmis- "sible, and that this document must be returned to the Plaintiff after complying "with the provisions of sections 140 and 142, C. P. C. The Plaintiff's pleader "offered to produce evidence to prove

(1). "the existence of a written grant,

(2). "circumstances from which the Court might presume that this "grant was unconditional and absolute.

"As regards the first point, there does not appear to be any doubt with "reference to sections 64 and 65, I. E. Act, that even the existence of a document "cannot be proved by secondary evidence unless the case comes under one of

(1). 5 B. L.R., 103.
(2). IV M. H. C. R. 312.
(3). I. L. R. VII Mad., 440.

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

"the exceptions contained in section 65. The Plaintiff admits that the plaint "grant does not come under any one of these exceptions. I, therefore, hold that "secondary evidence of its existence is inadmissible. Next, the Plaintiff offers "evidence of circumstances, from which circumstances he proposes to ask the "Court to presume that the plaint grant was unconditional. Such circumstances "amount to evidence as defined in section 3 of the I. E. Act, and the words of exe- "clusion in section 91 are 'no evidence shall be given in proof of the terms of such "'contract.' I, therefore, rule that this circumstantial evidence is inadmissible".

Thus as regards the grant under which the Plaintiff claims as a reversioner, we know nothing. It must be treated as non-existent as far as the Plaintiff's evidence goes. The Defendants, however, admit in paragraph 1 of their written statement that there was a transfer of the suit property to Rajagopal Rao whose reversionary heir the Plaintiff is. But they say that it was a conditional grant, and, as the Defendants have thus made a qualified statement, the Plaintiff cannot use the statement against them, apart from the qualification. *Bykunt Coomar* vs. *Chundur Mohun* [1], *Tarinee Pershad* vs. *Dwarkanath Rukheet* [2], *Poolin Beharee* vs. *Watson and Co.* [3]. Thus it appears to me that on the pleadings we must take it that the grant of 1848 is shown to be a conditional grant. If there were nothing in the pleadings to warrant and require this conclusion, then, in the absence of any expression or necessary implication of a reservation or condition, the principle of section 8 of the Transfer of Property Act might apply, and the presumption that the grant was absolute or unconditional might arise. In the present case, however, I think that the pleadings govern the case, and that from them we must infer that the grant was conditional. I, therefore, find under the first issue that the grant was conditional, or, in other words, that the donor provided for reversion to himself in case of the donee of 1848 dying without male issue.

9. The second issue raises the question of limitation. The Plaintiff's case is that he first became aware in 1888 of the fraud in respect of which relief is sought. He says the suit is governed by Article 95 of schedule 2 of the Limitation Act, and has to be brought within three years from the date when the fraud became known to the Plaintiff. I can find nothing in the evidence of the Plaintiff who was examined for the Defendants, which seems to me to warrant the presumption that he was aware of the fraud before September 1888, and as the suit was brought in November 1890, it is not, I find, barred by limitation.

The Plaintiff contended that, apart from the question of fraud, his suit would not be barred until twelve years had elapsed from the death of the last female holder in May 1887. He says that the title obtained in 1856 by his paternal grandfather must be held to have been derived from the widow in case it is found that the widow had an estate in the plaint land, and that consequently—*Sambasiva* vs. *Ragava* [4] —the possession of his (Plaintiff's) paternal grandfather and of the Defendants was not adverse to him (Plaintiff) as reversioner. The Defendants say that the possession derived from the original transferee's widow by Plaintiff's grandfather was obtained by undue influence as shown in the plaint, and consequently that the principle laid down in *Sambasiva* vs. *Ragava* [1] shows that the suit is time barred. It seems to me that the Plaintiff's case does not imply unilateral fraud on the widow, but collusion by the Plaintiff's paternal grandfather and his maternal grandmother against him (Plaintiff) as reversioner, and that such being the case, the possession of Plaintiff's paternal grandfather was derived from the widow, and cannot, therefore, be treated as adverse to him as reversioner. Therefore, supposing the case to come under Article 141, I do not think the Plaintiff is barred. I find, however, that the case, as brought, is not governed by that Article, but by Article 95, and that it is not time-barred.

(1). 10 W. R. Civil Rulings 190.
(2). 15 W. R. „ 451.
(3). 9 W. R. „ 190.
(4). I. L. R. XIII Mad., 512.

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PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*continued.*

10. The third Issue is:—

If Plaintiff be found entitled to recover the estate, under what condition, if any, is he entitled to recover it?

As I find that the Plaintiff is not entitled to recover the estate, the issue does not arise. On the analogy of the cases quoted in Mayne's Hindu Law § 341, 4th and 5th Editions, it is contended that if the Plaintiff is found entitled to recover the estate, he should be required to make good with interest to the 1st Defendant what her husband paid his (Plaintiff's) paternal grandfather for it. It seems to me that the principle on which section 64 of the Contract Act is based, should be followed if the Plaintiff got a decree, and that he should be required to restore to the 1st Defendant the benefit received under the contract of sale of 1874, which in effect he sues to have rescinded as fraudulent. The suit is one, I think, of the nature contemplated either by section 35 (*a*) or (*b*), Specific Relief Act. Either the sale of 1874 of the reversioner's interest was a fraud on the reversioner and was voidable by him as indicated by section 53 of the Transfer of Property Act, or it was void as indicated by section 23 of the Contract Act. In either case a suit under section 35 of the Specific Relief Act would lie, and the principle of restoration enunciated in section 64 of the Contract Act would apply. I find the third issue accordingly.

The result is that the Plaintiff's suit is dismissed with costs.

(Signed) H. R. FARMER,
District Judge.

Witnesses examined.

For Plaintiff.

1. Sri Rajah Rao Subhadrayyammi Garu.
2. Sri Rajah Rao Lakshmi Narasayyammi Garu.
3. Sri Rajah Rao Kanthayyammi Garu.
4. Allamraju Rangayya.

For Defendants.

1. Maremonda Lakshmi Narisimhulu.
2. Parinum China Venkata Rao.
3. Kotagiri Srinivasa Rao.
4. Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Zamindar of Bobbili.

(Signed) H. R. FARMER,
District Judge.

(1). I. L. R. XIII Mad. 512.

Statement showing the documents filed in Suit No. 39 of 1890 on the file of the District Court of Vizagapatam.

The documents produced for the Plaintiff were rejected as inadmissible.

Mark of document.	Date of			Amount if any.	Particulars as to execution.	Issue to which it relates.	Remarks.		
	Document.	Presentation.	Filing.				By whom produced.	For whom filed.	Admitted or proved. If proved, by whom.
				Rs. A. P.					
I.	9th April 1835.	21st September 1891.	5th October 1892.	16,162-10-2	Absolute sale-deed executed by Mandapaka Jagannayakulu in favor of Rajah Sveta Chalapati Ranga Rao, Zamindar of Bobbili, for the village of Chidikada (suit village) ...	1st issue.	Defendants' Counsel.	Defendants.	Admitted.
II.	7th January 1835.	Do. ...	Do. ...	23,837-5-10	Sale deed executed by Sri Rajah Krishnabhupati Devu, Zamindar of Madgole, in favor of Sri Rajah Sveta Chalapati Ranga Rao, Zamindar of Bobbili, for the villages of Jagannadhapuram and Thandisuravaram (suit property)	Do ...	Do. ...	Do. ...	Do.
III.	7th September 1848.	Do. ...	Do. ...	...	Certified extracts from the Register of the Collector's Office regarding the transfer of the suit estate to Inuganti Rajagopal Rao.	Do. ..	Do. ...	Do. ..	Do.
IV.	27th September 1848.	Do. ...	Do. ...	...	*Dheemut* written by the Agent to the Governor at Vizagapatam to the Kurnams and Nayiks of the suit estate calling upon them that they should hereafter pay cists, &c., to Inuganti Rajagopal Rao as the estate has been transferred to him	Do. ...	Do. ...	Do. ...	Do.
V.	6th February 1849, 14th Magha Suddha of Kilaka.	Do. ...	Do. ...	...	Order written by Rajah Sveta Chalapati Ranga Rao to Sasapu Papinayudu directing him to get kadapas executed and accounts written in the name of Inuganti Rajagopal Rao for the suit estate as it has been given to him (Rajagopal Rao)	Do. ...	Do. ...	Do. ...	Do.
VI.	19th February 1862.	Do. ...	Do. ...	11,000-0-0	*Patta* executed by Rajah Sveta Chalapati Ranga Rao (Plaintiff's late paternal grandfather) to Inuganti Sitaramasvami (1st Defendant's late husband) for the suit estate ...	Do. ..	Do.	Do. ..	Do.
VII.	29th July 1862.	Do. ...	Do. ...	...	Order (puroni) written by Rajah Sveta Chalapati Ranga Rao (the then Zamindar of Bobbili) to Putrevu Kondalaryudu requiring that the accounts, &c., for the suit estate should hereafter be written in the name of Inuganti Sitaramasvami as the estate has been given to him by a *patta* (exhibit VI)...	Do. ...	Do. ..	Do. ...	Do.
VIII.	29th July 1862.	Do. ...	Do. ...	...	Order written by Rajah Sveta Chalapati Ranga Rao (the then Zamindar of Bobbili) to the Karnams and Nayiks of the suit estate requiring them to pay their sists, &c., to Inuganti Sitaramasvami (1st Defendant's late husband) as the estate has been given to him by a *patta* (exhibit VI)	Do. ...	Do. ...	Do. ...	Do.
IX.	28th October 1862, 9th Karthika Suddha of the year Dundubhi.	Do. ...	Do. ...	...	Letter written by Inuganti Sitaramasvami (late Dewan of Bobbili) to his younger brother Inuganti Sitaramasvami (1st Defendant's late husband) stating that arrangements will be made for getting the suit estate registered in his name and that until then peshcush should be paid and receipts taken in the Rajah's name	Do. ..	Do. ...	Do. ...	Do.
X.	7th January 1863, 2nd Pushya Bahula of the year Dundubhi.	Do. ...	Do. ...	...	Certified copy of letter written by Rajah Rayadappa Ranga Rao (Plaintiff's late father) to Inuganti Sitaramasvami (the late husband of 1st Defendant) stating that the suit estate will be registered in his name as soon as the Collector arrives at Head-Quarters from circuit and that with regard to his claim for the purchase-money it will be settled as soon as the officer arrives here	Do. ...	Do. ...	Do. ...	Do.

Deputy Registrar.

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Mark of document.	Date of Document.	Date of Presentation.	Date of Filing.	Amount, if any.	Particulars as to execution.	Issue to which it relates.	Remarks. By whom produced.	Remarks. For whom filed.	Remarks. Admitted or proved. If proved, by whom.
XI.	5th April 1866.	21st September 1891.	5th October 1892.	...	Letter written by Inuganti Sitaramasvami (late husband of 1st Defendant) to the Collector of Vizagapatam, requesting that the suit estate may be registered in his name as it has been given to him by *patta* (exhibit VI.)	1st issue.	Defendants' Counsel.	Defendant.	Admitted.
XII.	15th April 1866.	Do. ...	Do....	...	Letter written by Rajah Rayadappa Ranga Rao (Plaintiff's late father) to the Collector of Vizagapatam, stating that a Vakil has not been sent as requested, to get the suit estate registered in the name of Inuganti Sitaramasvami (1st Defendant's husband) as the estate cannot be registered in Sitaramayya's name, as the amount of consideration is small and as the document executed by his late father (Bobbili Zamindar) in Sitaramayy's name has not been executed with his consent and that he is ready to obtain justice by a suit...	Do. ...	Do. ...	Do ...	Do.
XIII.	23rd April 1866.	Do. ...	Do. ...	...	Extract from the register of estates showing that the Collector has registered Inuganti Sitaramasvami (1st Defendant's late husband) as proprietor of the suit estate notwithstanding the objections of the Plaintiff's late father stated in his letter (exhibit XII) ...	Do. ...	Do. ...	Do....	Do.
XIV.	18th March 1874.	Do. ...	10th October 1892.	...	Letter written by Lakshmi Chellayyamma (late adoptive mother of Plaintiff) to the Collector, Vizagapatam, showing that the suit estate has been given to the 1st as well as the 2nd donee on condition that it should revert to the donor if the donees die without male issue, and that the widow of the second donee (1st Defendant) has also executed a document the effect that the estate has to go to Chellayyammi after her (1st Defendant's) death as settled by the late second donee.	Do. ...	Do. ..	Do....	Signature proved by 1st, 2nd and 3rd witnesses for Defendant.
XV.	27th September 1848.	21st September 1891.	Do. ...	...	Letter from Governor's Agent, Vizagapatam, to Inuganti Rajagopal Rao stating that the suit estate has been registered in his name, that a *dheemut* has also been issued to the Karnams, &c., and that he should pay peshcush hereafter	Do. ...	Do. ...	Do. ...	Admitted.
XVI.	11th April 1856.	28th September 1892.	6th October 1892.	...	Letter written by Inuganti Gopayyammi to the Agent to the Governor at Vizagapatam, stating that the suit estate has been gifted to her late husband Rojagopal Rao on condition that it should revert to the donor (Zamindar of Bobbili, Plaintiff's paternal grandfather) if the former dies without male issue and that, as her husband died without male issue, the estate should be again registered in the name of Rajah Sveta Chalapati Ranga Rao (the donor) ... ... (Copy substituted for original.)	Do. ...	Collector's Clerk.	Do. ..	Do. ..
XVII.	Date of receipt 19th April 1856, 7th Chaitra Suddha of the year (torn).	Do. ...	Do....	...	Letter written by the then Zamindar of Bobbili to the Agent to the Governor at Vizagapatam to the same effect as exhibit XV above given (copy substituted for original)	Do. ...	Do. ...	Do. ...	Do. ...
XVIII.	14th May 1856.	6th October 1892.	Do. ...	...	Certified copy of letter from Agent to the Governor at Vizagapatam to the then Zamindar of Bobbili (Plaintiff's paternal grandfather) stating that the suit villages have been registered in his name as requested by him and Gopayyammi by exhibits XV and XVI	Do, ...	Defendants' Counsel.	Do. ..	Do. ...

Deputy Registrar.

RECORD.
PART I.
In the District Court of Vizagapatam.
No. 45.
Judgment of the District Court, 18th November 1892.—continued.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 45. Judgment of the District Court, 18th November 1892.—*concluded.*

Mark of document.	Date of Document.	Date of Presentation.	Date of Filing.	Particulars as to execution. Amount, if any.	Remarks. Issue to which it relates.	By whom produced.	For whom filed.	Admitted or proved. If proved, by whom.
XIX.	3rd May 1856.	28th September 1892.	6th October 1892.	Register of estates, page 122, showing that the suit estate has been registered in the name of Sveta Chalapati Ranga Rao, Zamindar of Bobbili, in accordance with the request of Gopayyammi. (Extract substituted for original Register)	1st issue.	Collector's Clerk.	Defendants.	Admitted.
XX.	6th October 1892.	10th October 1892.	10th October 1892.	Endorsement from Collector on Defendants' application that Bhavayyammi's (1st Defendant's) letter of February 1874 is not in record	Do. ...	Defendant's Counsel.	Do. ...	Do. ...
XXI.	12th April 1879.	28th September 1892.	Do. ...	Letter from Collector to the Court of Wards regarding an attempt by one Lingam Lakshmaji Pandit to fraudulently obtain possession of the suit estate and regarding a suit for obtaining a lease of the suit estate ...	Do. ...	Collector's Clerk.	Do. ...	Public document.
XXII.	25th April 1879.	Do. ...	Do. ...	Proceedings of the Court of Wards to the Collector of Vizagapatam, informing that if a suit bo brought (as mentioned in exhibit XX) by Lingam Lakshmaji Pandit, it must be defended and legal advice can be taken, if necessary	Do. ...	Do. ...	Do. ...	Do. ...

(Signed) H. R. FARMER,
District Judge.

Deputy Registrar.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 46. Diary of the District Judge of Vizagapatam in Original Suit No. 39 of 1890.

No. 46.

Diary.

IN THE DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Rajah of Bobbili ... ... *Plaintiff.*

versus

Court of Wards ... ... *Defendant.*

Plaint presented ... ... 29—11—1890.

„ filed ... ... 12—12—1890.

Date of summons ... ... 23— 1—1891.

When served ... ... 26— 1—1891.

Date fixed for first hearing... ... 18— 3—1891.

Settlement of issues ... ... 30— 9—1891.

Examination of Plaintiff's witness ... 5—10—1892. 1st witness.

„ of Defendant's witnesses. 6—10—1892. (Three witnesses examined.) 4th witness examined on 10—10—1892.

Documents admitted in evidence for Plaintiff ... ... Nil.

Do. do. do. for Defendant 5—10—92, 6—10—92 and 10—10—92 and 1 and 2—11—92.

Case closed ... ... 2—11—1892.

Judgment ... ...18—11—1892.

Draft decree and judgment ... 18—11—1892.

(Signed) H. R. FARMER,
District Judge.

RECORD.

PART I.

In the District Court of Vizagapatam.

No. 46. Diary of the District Judge of Vizagapatam in Original Suit No. 39 of 1890.—*concluded.*

B Form.

Adjournments.

For Plaintiff.		For Defendant.		For Court.
No. of Petition.	Date to which adjourned or otherwise.	No. of Petition.	Date to which adjourned or otherwise.	Date and reasons.
		Miscellaneous Petition No. 90 of 1891.	Adjourned from 18—3—1891 to 20—7—1891.	20—7—1891. Not taken up. 21—7—1891. Adjourned to 21—9—91. 21—9—1891. For issues to 28—9—91. 28—9—1891. Issues settled. To 30—9—1891 to see if more issues are required. 30—9—1891. Issues settled. For final hearing to 19—2—92. 19—2—1892. Adjourned on account of other work as per istahar to 22—8—92. Adjourned to 28—9—92. 28—9—1892. Adjourned from day to day owing to pressure of work until 5—10—92.

Deputy Registrar.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 47. Memorandum of Appeal, dated 23rd February 1893, against the decree of the District Court of Vizagapatam.

PART II.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

No. 47.

MEMORANDUM OF APPEAL.

Before the Court of the District Judge at Vizagapatam.

Original Suit No. 39 *of* 1890.

Before the High Court of Judicature at Madras.

Appeal Suit No. 58 *of* 1893.

	In the District Court.	*In the High Court.*
Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ...	*Plaintiff.*	*Appellant.*
versus		
1. Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards represented by 2. The Collector of Vizagapatam, Agent to the Court of Wards.	*Defendants.*	*Respondents.*

The Plaintiff abovenamed appeals to the High Court of Judicature at Madras against the decree of the District Judge of Vizagapatam, dated 18th November 1892, and passed in the cause aforesaid, for the following, among other reasons :—

I. "Section 115 of the Indian Evidence Act is not applicable to this case. It is misconstrued and misapplied.

II. "The Plaintiff claiming as the reversionary heir of his maternal grandfather, is not estopped from questioning the *bonâ fides* and validity of the transfer to the 1st Defendant's husband by his paternal grandfather in 1862.

III. "It is competent under Hindu law for a grandson to dispute the *bonâ fides* and validity of any transfer made by his own paternal grandfather, whether for consideration or otherwise, and he cannot, therefore, be estopped under section 115 of the Evidence Act or of any other provision of the law.

IV. "The original deed of gift of 5th April 1848 was duly stamped under the provisions of the Stamp Rules then in force, and the Lower Court was wrong in not having allowed the Plaintiff to tender in evidence a copy of the said deed which was produced by the Plaintiff.

V. "Even if the District Judge was right in holding that the original of the copy tendered in evidence was insufficiently stamped, he was not warranted in declining to receive secondary evidence of the original grant and it was competent to the Lower Court to admit the copy in evidence on receipt of penalty under the provisions of the Stamp Act.

VI. "The Defendant while admitting in her written statement the grant of 1848 in favour of Plaintiff's maternal grandfather, pleaded that the said grant was qualified by a condition that the property was to revert on the death of the donee without male issue to the donor. The District Judge ought, on these pleadings, to have held that the Plaintiff might rely on the Defendant's admission in her written statement in proof of the grant of 1848 without adducing evidence and that the *onus* was on the Defendant to prove the condition alleged to have been annexed to the grant and that the same was valid.

VII. "The finding of the Lower Court on the first issue is wrong in law and against the weight of evidence and probabilities of the case.

VIII. "The finding of the Lower Court on the third issue is wrong. The Lower Court did not properly appreciate the nature of the transaction evidenced by exhibit VI and that the same was misconstrued.

IX. "Section 64 of the Contract Act and section 35 of the Specific Relief Act apply only to contracts between parties, and, therefore, they cannot be applied to the present case."

MADRAS, 23—2—93.

(Signed) T. Rama Rao.

(„) C. R. Thiruvenkata Chari

for the Hon. V. Bhashyam Ayyangar,

Vakils for Appellant.

Deputy Registrar.

No. 48.

MEMORANDUM OF CIVIL MISCELLANEOUS PETITION.

Before the Court of the District Judge at Vizagapatam.

Original Suit No. 39 *of* 1890.

Before the High Court of Judicature at Madras.

Appeal Suit No. 58 *of* 1893.

Before the High Court of Judicature at Madras,

Civil Miscellaneous Petition No. 509 *of* 1893.

	In the District Court.	*In the High Court.*	*In the High Court.*
Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili.	*Plaintiff.*	*Appellant.*	*Petitioner.*
versus			
1. Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards, represented by 2. The Collector of Vizagapatam, Agent to the Court of Wards.	*Defendants.*	*Respts.*	*Counter-Petrs.*

To

THE HONORABLE SIR AUTHUR J. H. COLLINS, KNIGHT, Q. C., *Chief Justice.*

AND

THE HONORABLE PUISNE Judges of the Hight Court of Judicature at Madras.

Petition presented on behalf of the Plaintiff abovenamed under section 568 of the Code of Civil Procedure.

MOST RESPECTFULLY SHEWETH:—

1. That, in the cause aforesaid, the District Judge rejected the document herewith tendered on behalf of the Plaintiff as legally inadmissible in evidence.

2. That for the reasons set forth in the Memorandum of Appeal presented to day to this Court against the decree passed in the cause aforesaid, the document * herewith presented is legally admissible in evidence and that the reasons assigned by the Lower Court for rejecting the same are not sound and valid.

* A translation of it is printed as an enclosure to this number.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 48. Petition, dated 23rd February 1893, by Plaintiff praying the High Court to admit a document (printed as an enclosure to this number) in evidence.—*concluded.*

3. It is therefore prayed that the document herewith tendered may be received in evidence on behalf of the Plaintiff and that the same may be ordered to be translated and printed along with the records of this appeal.

23*rd February* 1893.

(Signed) T. Rama Rao,
(„) C. R. Thiruvenkata Chari
for V. Bhashyam Ayyangar,
Vakils for the Appellant.

Enclosure.

Patta executed and given on Wednesday the 2nd of Chaitra Sudha of the year Kilaka, corresponding to 5th April 1848, to Rajah Inuganti Rajagopala Rayanin Garu by M. R. Ry. Rajah Sveta Chalapati Ranga Rao Bahadur Garu, Zamindar of Bobbili.

As we threw sacred rice (akshatulu) at the time you married my younger sister, Sowbhagyavathi Gopayya, blessing that you would be made a Zamindar, we have given you as gift the two villages of Kasba (town) Jagannadhapuram with its hamlets Apalarajupuram and Vantarlapalem and Thandisuravaram which had been attached to the Zamindari of Madugula, which were acquired by us by purchase from the Zamindar of Madugula and which (pay) a peshcush of Rs. 3,108-3-0 to Government and the village of Chidikada which (pays) a peishcush of Rs. 1,750-0-0 to Government and which was acquired by us by purchase from Mandapaka Jagannayakulu Garu, without taking the value thereof from you, excluding the usual Deva Brahmana Mirasi Manyams and including the mamul (usual) Kattubadis thereof. You shall therefore pay every year according to instalments to the Honorable Government the Jamabandi money (peshcush) at Rs. 4,858-3-0 per year and enjoy from generation to generation the produce of the said villages after rendering them fit for produce, and live happily. The preservation of a gift made by another is twice as meritorious as making a gift.

Witnesses :—

(Signed) Nandivada Venkataratnam.
(„) Putrevu Narisimhulu.

Written by Allamraju Jagannayakulu with the knowledge of the above (witnesses).

Endorsement of the District Court, dated 5th October 1892.

DISTRICT COURT OF VIZAGAPATAM.

Original Suit No. 39 *of* 1890.

Suit for resumption of an estate (immoveable).

Produced on the 29th November 1890 by the Plaintiff's pleader P. Seshagiri Rao Pant and rejected for the reason given in the order,* dated 5th October 1892.

(Signed) H. R. FARMER,
District Judge.

* This order appears in the Judgment of the District Court at pp. 66 & 67.

Deputy Registrar.

RECORD.

PART II.

In the High Court of Judicature at Madras.

High Court's endorsement, dated 4th April 1894.

Endorsement of the High Court on the enclosure to No. 48.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the fourth day of April,
One thousand eight hundred and ninety-four.

PRESENT:—THE HONORABLE JUSTICE SIR T. MUTTUSAMI AIYAR, K.C.I.E.,
AND
THE HONORABLE MR. JUSTICE BEST.

Appeal Suit No. 58 *of* 1893.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Appellant* (*Plaintiff.*)

versus

Sri Inuganti Bhavayyammi Garu, a ward of the Court of Wards, represented by their Agent, the Collector of Vizagapatam ... ... *Respondent* (*Defendant.*)

Produced on the 23rd February 1893 on behalf of the Appellant and rejected for the reasons given in the judgment in the Appeal and the order in Civil Miscellaneous Petition No. 509 of 1893.

(Signed) A. T. FORBES,
Dy. Registrar,
Appellate Side.

No. 49.

No. 49. Order, dated 4th April 1894, on Petition for the admission of a document in evidence.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the fourth day of April,
One thousand eight hundred and ninety-four.

PRESENT:—THE HONORABLE JUSTICE SIR T. MUTTUSAMI AIYAR, K.C.I.E.,
AND
THE HONORABLE MR. JUSTICE BEST.

Civil Miscellaneous Petition No. 509 *of* 1893.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili. } *Petitioner* (*Appellant in Appeal Suit No.* 58 *of* 1893 *on the file of this Court*).

versus

Sri Inuganti Bhavayyammi Garu, a ward of the Court of Wards, represented by their Agent, the Collector of Vizagapatam. } *Respondent* (*Respondent in Do.*).

Application praying that, in the circumstances stated therein, the High Court will be pleased to admit in evidence in Appeal No. 58 of 1893 the *patta*, dated 5th

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 49. Order, dated 4th April 1894, on Petition for the admission of a document in evidence. —*concluded.*

No. 50, Decree of the High Court in Appeal Suit No. 58 of 1893, confirming the decree of the District Court and dismissing the appeal with costs, dated 4th April 1894.

April 1848, executed by the Zamindar of Bobbili in favour of Rajah Inuganti Rajagopala Rayanin Garu.

This application coming on for hearing: upon perusing the application, and upon hearing the arguments of Mr. T. Rama Rao and the Honorable V. Bhashyam Ayyangar, vakils for the Petitioner, and of Mr. S. Subramanyam, vakil for the Respondent, it is ordered that this Petition be, and the same hereby is, rejected for the reasons stated in our judgment in Appeal No. 58 of 1893.

By the Court.

(Signed) H. W. FOSTER,
Registrar,
Appellate Side.

To

The District Judge of Vizagapatam.

No. 50.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the fourth day of April,

One thousand eight hundred and ninety-four.

PRESENT:—THE HONORABLE JUSTICE SIR T. MUTTUSAMI AIYAR, K.C.I.E.,

AND

THE HONORABLE MR. JUSTICE BEST.

Appeal Suit No. 58 *of* 1893.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili. — *Appellant (Plaintiff.)*

versus

Sri Inuganti Bhavayyammi Garu, a ward of the Court of Wards, represented by their Agent, the Collector of Vizagapatam. — *Respondent (Defendant.)*

Appeal against the decree of the District Court of Vizagapatam in Original Suit No. 39 of 1890.

Grounds of Appeal.

I. "Section 115 of the Indian Evidence Act is not applicable to this case. It is misconstrued and misapplied.

II. "The Plaintiff claiming as the reversionary heir of his maternal grandfather, is not estopped from questioning the *bonâ fides* and validity of the transfer to the 1st Defendant's husband by his paternal grandfather in 1862.

Deputy Registrar.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 50. Decree of the High Court in Appeal Suit No. 58 of 1893, confirming the decree of the District Court and dismissing the appeal with costs, dated 4th April 1894.—*continued.*

III. "It is competent under Hindu law for a grandson to dispute the *bonâ fides* and validity of any transfer made by his own paternal grandfather, whether for consideration or otherwise, and he cannot, therefore, be estopped under section 115 of the Evidence Act or of any other provision of the law.

IV. "The original deed of gift of 5th April 1848 was duly stamped under the provisions of the Stamp Rules then in force, and the Lower Court was wrong in not having allowed the Plaintiff to tender in evidence a copy of the said deed which was produced by the Plaintiff.

V. "Even if the District Judge was right in holding that the original of the copy tendered in evidence was insufficiently stamped, he was not warranted in declining to receive secondary evidence of the original grant and it was competent to the Lower Court to admit the copy in evidence on receipt of penalty under the provisions of the Stamp Act.

VI. "The Defendant while admitting in her written statement the grant of 1848 in favour of Plaintiff's maternal grandfather, pleaded that the said grant was qualified by a condition that the property was to revert on the death of the donee without male issue to the donor. The District Judge ought, on these pleadings, to have held that the Plaintiff might rely on the Defendant's admission in her written statement in proof of the grant of 1848 without adducing evidence and that the *onus* was on the Defendant to prove the condition alleged to have been annexed to the grant and that the same was valid.

VII. "The finding of the Lower Court on the first issue is wrong in law and against the weight of evidence and probabilities of the case.

VIII. "The finding of the Lower Court on the third issue is wrong. The Lower Court did not properly appreciate the nature of the transaction evidenced by exhibit VI and that the same was misconstrued.

IX. "Section 64 of the Contract Act and section 35 of the Specific Relief Act apply only to contracts between parties, and, therefore, they cannot be applied to the present case."

This appeal coming on for hearing on Tuesday, the 3rd day of April 1894; upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the suit, and upon hearing the arguments of Mr. T. Rama Rao and the Honorable V. Bhashyam Ayyangar, vakils for the Appellant, and of Mr S. Subramanyam, vakil for the Respondent, and having taken time to consider till this day, this Court doth order and decree that the Decree of the Lower Court be, and the same hereby is, confirmed, and this

appeal dismissed; and this Court doth further order and decree that the Appellant do pay to the Respondent Rs. 1,024-12-6 for his costs in opposing this appeal.

Memorandum of costs.

Respondent's (Defendant's) costs.

	Rs.	A.	P.
Stamp for vakalutnama	2	0	0
Pleader's fee	1,000	0	0
One printed copy purchased	22	12	6
To be paid to the Respondent (Defendant) by the Appellant (Plaintiff)	1,024	12	6

(Signed) H. W. FOSTER,

Registrar,

Appellate Side.

No. 51.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Wednesday, the fourth day of April,

One thousand eight hundred and ninety-four.

PRESENT:—THE HONORABLE JUSTICE SIR T. MUTTUSAMI AIYAR, K.C.I.E.,

AND

THE HONORABLE MR. JUSTICE BEST.

Appeal Suit No. 58 *of* 1893.

(*Civil Miscellaneous Petition No.* 509 *of* 1893.)

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili. — *Appellant (Plaintiff).*

versus

Sri Inuganti Bhavayyammi Garu, a ward of the Court of Wards, represented by their Agent, the Collector of Vizagapatam. — *Respondent (Defendant).*

Appeal against the Decree of the District Court of Vizagapatam in Original Suit No. 39 of 1890.

Deputy Registrar.

This Appeal coming on for hearing on Tuesday, the 3rd day of April 1894, and having stood over for consideration till this day, the Court delivered the following

JUDGMENT:—

Appellant is the Zamindar of Bobbili, and Respondent's late husband, Sitaramasvami, was the sister's son of Appellant's paternal grandfather. The property in litigation is the proprietary estate called Chidikada Jagannadhapuram and it has admittedly been in the possession first of Sitaramasvami and after his death in that of his widow, the Respondent, from February 1862. In that year, Appellant's paternal grandfather transferred the estate for valuable consideration to Respondent's husband under the *patta* VI. Appellant brought the present suit to eject the Respondent from that estate and to recover possession of it with *mesne* profits for three years, 1887 to 1889. Appellant's mother, Chellayyammi, was the daughter of Gopayyammi who was the sister of Appellant's paternal grandfather and wife of one Rajagopal Rao. The estate in dispute was first granted to Rajagopal Rao in 1848 and on his death in 1856, his widow and the grantor applied to the Collector for its being registered in the name of the latter. The Collector accordingly registered the estate in the name of the grantor who, after continuing in possession for six years, transferred it for value under the *patta* VI to Sitaramasvami as stated above. The ground on which the Appellant rests his claim is that the first grant to his maternal grandfather Rajagopal Rao was absolute and unconditional, that it is not true as stated by his paternal grandfather and maternal grandmother in 1856 (exhibits XVI and XVII), that the grant was subject to the condition that the estate was to revert to the grantor in the event of the grantee dying without male issue, and that the allegation made to that effect in 1856 was collusive and made in view to defraud the reversioner. He alleged that his maternal grandmother Gopayyammi died in March 1872, that his mother died in May 1887, that he was adopted in February 1871, and attained his majority in 1881. It will thus be seen that Appellant claims the estate as the daughter's son by adoption of Rajagopal Rao the grantee of 1848. The Respondent resisted the claim on the ground that the grant to Rajagopal Rao was not absolute but conditional, that the estate reverted to the grantor on Rajagopal's death without male issue, that the transfer of 1862 to her husband was valid and that the Appellant's claim was barred by limitation. The Judge held that the grant of 1848 was conditional and that although the claim was not barred by limitation, the Appellant was estopped from asserting that his paternal grandfather was not competent to transfer the estate under *patta* VI and that the transfer was valid. The Judge accordingly dismissed the suit with costs. Hence this appeal.

We are unable to agree with the Judge that the doctrine of estoppel applies to this case. It cannot apply when the person making the representation was not the person as whose representative the Plaintiff claims the property and in the case before us the Appellant claims the estate in the right of his maternal grandfather and not of his paternal grandfather who was the person that declared that he was competent to transfer it under the *patta* VI. The limitation of the

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 51. Judgment of the High Court in Appeal Suit No. 58 of 1893, confirming the decree of the District Court and dismissing the appeal with costs, dated 4th April 1894.—*continued.*

doctrine of estoppel is mentioned not only in the case referred to by the Judge, Sutherland's Weekly Reporter 289, C. R., but also by the Privy Council in 19 I. A. 221. As to the question of limitation, the decision must depend on the further question whether the re-transfer to the Appellant's paternal grandfather was the result of collusion between him and his sister Gopayyammi. Act XIV of 1859 was the law of limitation in force until April 1873 and if the Appellant's right were barred by that enactment, it could not be revived either by Act IX of 1871 or by Act XV of 1877 under which the death of the female on which the reversion becomes an estate vested in possession is the event from which time begins to run against the right of the reversioner to sue. Assuming that there was no collusion between Appellant's paternal grandfather and maternal grandmother and that the re-transfer to the grantor was *bonâ fide*, the resumption by the grantor in 1856 would be an act done in enforcement of an adverse title against both the widow and the reversioner and not merely an act done under an alienation by the widow. The suit would then clearly be barred by Act XIV of 1859. It was also so held in the cases reported in 3. B. L. R. 443 and 2 I. A. 113.

The real question then for determination is whether the collusion alleged between Gopayyammi and Appellant's grandfather is proved. The *onus* of proving the fraud is clearly upon the Appellant and we are of opinion that his oral evidence is not reliable. It is true that his first three witnesses depose to a conversation between Appellant's grandfather and maternal grandmother in which it was contrived that they should falsely represent to the Collector that the grant of 1848 was conditional. But we are unable to attach weight to their evidence. In the first place they are all *Ghosha* ladies in a position of dependance on the Appellant and in receipt of maintenance from him. They say they never mentioned what they then heard to any one before this suit and it is improbable that they should be able to remember, at this distance of time, the particulars to which they depose.

We are further of opinion that the Judge is right in refusing to admit in evidence an alleged copy of the grant of 1848, on the ground that the original was not sufficiently stamped under Regulation XIII of 1816 which was in force in 1848. The copy shows that the stamp used was of rupees 8 value, whilst it ought to have been of rupees 50 value. The value of the property is not mentioned in the copy. The Judge was, however, in our opinion, justified in ascertaining the value by reference to Exhibits I and II and that the value of the stamp which should have been used must be calculated with reference to that value. We also agree with him that the copy should not be admitted on payment of penalty, for the provision of the Stamp Act regarding payment of penalty (Section 39 of Act I of 1879) prescribes that such payment shall be endorsed on the document and pre-supposes that the document is forthcoming. It was also held in I. L. R. VII Mad. 440 that in the case of a lost document no penalty can be levied and secondary evidence admitted. As regards the contention that the *onus* of proving that the grant was conditional rests on the Defendant, we are of opinion that the contention cannot be supported. In the written statement it was denied that any *patta* in writing was granted in 1848, and that there was any

Deputy Registrar.

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PART II.

In the High Court of Judicature at Madras.

No. 51. Judgment of the High Court in Appeal Suit No. 58 of 1893, &c.—*concluded.*

grant in April of that year at all, but it was alleged that there was a conditional grant in August 1848. Under these circumstances, we think it is incumbent on the Plaintiff's to show that there was an unconditional grant in writing, this being part of his case. As was observed in 9 W. R. 190, the averment in the written statement is not in the nature of a plea of confession and avoidance so as to shift the burden on to the Defendant. Even assuming the *onus* of proof to have been on the Defendant, the Judge's finding that the grant of 1848, was conditional is supported by several of Defendant's documents, XIV, XVI and XVII, the first of which contains an admission by the Appellant's mother in 1874 that the original grant was conditional. The appeal therefore fails, and we dismiss it with costs.

By the Court.

(Signed) A. T. FORBES,
Deputy Registrar,
Appellate Side.

No. 52.

No. 52. Petition by the Plaintiff praying for a certificate that the case is a fit one for appeal to Her Majesty in Council, dated 1st October 1894.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Memorandum of Civil Miscellaneous Petition.

Under Sections 598 *and* 600, *Civil Procedure Code.*

Before the District Court of Vizagapatam.

Original Suit No. 39 *of* 1890.

Before the High Court of Judicature at Madras.

Appeal Suit No. 58 *of* 1893.

Before the High Court of Judicature at Madras.

Civil Miscellaneous Petition No. 1219 *of* 1894.

	Before the District Court.	*Before the High Court.*
Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ...	*Plaintiff.*	*Appt. Petr.*
versus		
Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards represented by the Collector of Vizagapatam, Agent to the Court of Wards.	*Deft.*	*Respt. Counter Petr.*

Aggrieved by this Honorable Court's decree and judgment of the 4th April 1894, your petitioner begs to submit herewith a petition of appeal to Her Most Gracious Majesty in Privy Council and prays that your Lordships will be pleased to grant your petitioner a certificate shewing that the value of the property involved in this appeal exceeds ten thousand rupees and also that the appeal involves a substantial question of law fit for an appeal to Her Majesty in Council.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 52 Petition by the Plaintiff praying for a certificate that the case is a fit one for appeal to Her Majesty in Council, dated 1st October 1894.—*concluded.*

Grounds of Appeal.

That the decree is wrong in law and against the weight of evidence for the following amongst other reasons.

1. The original deed of gift of 5th April 1848 was duly stamped under the provisions of the stamp rules then in force and the High Court and the Lower Court were wrong in not having allowed the Plaintiff to tender in evidence, a copy of the said deed which was produced by the Plaintiff.

2. Even if the District Judge and High Court were right in holding that the original of the copy tendered in evidence was insufficiently stamped they were not warranted in declining to receive secondary evidence of the original grant and it was competent to admit the copy in evidence on receipt of penalty under the provisions of the stamp act.

3. The Lower Courts were wrong in taking into consideration exhibit I, dated 9th April 1835, and exhibit II, dated 7th January 1835, for the purpose of ascertaining the value of the property conveyed by the gift of 5th April 1848.

4. The Defendant while admitting in her written statement the grant of 1848 in favour of Plaintiff's maternal grandfather, pleaded that the said grant was qualified by a condition that the property was to revert on the death of the donee without male issue to the donor. The Lower Courts ought, on these pleadings, to have held that the Plaintiff might rely on the Defendant's admission in her written statement in proof of the grant of 1848 without adducing evidence and that the *onus* was on the Defendant to prove the condition alleged to have been annexed to the grant and that the same was valid and binding on the Plaintiff. The admissions contained in exhibit XIV made by Plaintiff's mother and exhibit XVI made by Plaintiff's maternal grand-mother that the gift was conditional do not bind the Plaintiff as he claims as reversionary heir to the last male holder, namely his maternal grand-father.

5. The re-transfer by Plaintiff's maternal grand-mother in favour of Sri Raja Sveta Chalapati Ranga Rao carried out by the Collector at her request on 3rd May 1856 was an alienation by Plaintiff's maternal grandmother of an estate in which she had only a limited interest and cannot bind the Plaintiff in the absence of proof that such alienation was for proper purposes; the onus of proof on this point was on Defendant and has not been discharged.

6. The High Court was wrong in holding that it was necessary for the Plaintiff to prove collusion between his maternal grandmother and his paternal grandfather.

7. If the High Court are right in holding that the Plaintiff was bound to prove the said collusion the evidence recorded in the case was reliable and no sufficient grounds have been made out for discrediting it.

(Signed) JOHN G. SMITH,
Counsel for the Petitioner.

1*st October* 1894.

Deputy Registrar.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 53. Supplemental Ground of Appeal to Her Majesty in Council.

No. 53.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Memorandum of Civil Miscellaneous Petition.

In the High Court of Judicature at Madras.

Appeal Suit No. 58 *of* 1893.

In the High Court of Judicature at Madras.

Civil Miscellaneous Petition No. 1219 *of* 1894.

In the High Court of Judicature at Madras.

Civil Miscellaneous Petition No. 1220 *of* 1894.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *Appellant. Petr. Petr.*

versus

Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards represented by the Collector of Vizagapatam, agent to the Court of Wards. } *Respt. Counter-Petr. Counter-Petr.*

The petitioner presents this Civil Miscellaneous Petition to the High Court of Judicature at Madras to present the following additional ground of appeal with the Civil Miscellaneous Petition No. 1219 of 1894 presented on the 1st October 1894 in the matter of the abovesaid Appeal No. 58 of 1893, and number it as ground No. 8 in the said Civil Miscellaneous Petition No. 1219 of 1894 of 1st October 1894.

8. The High Court erred in holding that, assuming there was no collusion between Appellant's paternal grandfather and maternal grandmother, the Plaintiff's suit was barred by limitation.

(Signed) JOHN G. SMITH,
Counsel for the Petitioner.

11*th October* 1894.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 54. Order certifying that the case is a fit one for appeal to Her Majesty in Council, dated 18th December 1894.

No. 54.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Tuesday, the eighteenth day of December,

One thousand eight hundred and ninety-four.

PRESENT:—THE HONORABLE JUSTICE SIR T. MUTTUSAMI AIYAR, K. C. I. E.,

AND

THE HONORABLE MR. JUSTICE BEST.

Civil Miscellaneous Petitions Nos. 1219 *and* 1220 *of* 1894.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu. *versus* } *Petitioner (Appellant in Appeal No.* 58 *of* 94 *on the file of this Court.)*

Sri Inuganti Bhavayyammi Garu, a ward of the Court of Wards represented by their agent, the Collector of Vizagapatam. } *Counter Petr. (Respt. in do.)*

Petitions presented under sections 598 and 600 of Act XIV of 1882 praying for the grant of a certificate to enable the Petitioner to appeal to Her Majesty in Council against the decree of this Court in Appeal No. 58 of 1893, confirming the decree of the District Court of Vizagapatam in Original Suit No. 39 of 1890.

These Petitions coming on for hearing: upon perusing the petitions and the grounds of appeal to Her Majesty in Council, and upon hearing the arguments of Mr. J. G. Smith, Counsel for the Petitioner, and of Mr. V. Krishnasvami Ayyar for Mr. S. Subramanyam, vakil for the Counter-Petitioner; it is hereby certified that, as regards the value of the subject matter and the nature of the questions involved, the case fulfils the requirements of section 596 of Act XIV of 1882.

By the Court.

(Signed) A. T. FORBES,
Dy. Registrar,
Appellate Side.

Deputy Registrar.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 55. Certificate granted by the Deputy Registrar acknowledging the receipt of the usual security for costs, 17th January 1895.

No. 55.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Seventeenth day of January,

One thousand eight hundred and ninety-five.

Appeal Suit No. 58 *of* 1893.

In the appeal of Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili.

versus

Sri Inuganti Bhavayyammi Garu, a ward of the Court of Wards represented by their agent, the Collector of Vizagapatam.

Certificate.

I hereby certify that Mr. John G. Smith has deposited in the office of the Registrar of the High Court, the sum of Rupees Four thousand as security for the costs of the Respondent in the appeal sought to be preferred to Her Majesty in Council against the decree of the High Court in Appeal No. 58 of 1893 and a further sum of Rupees Five hundred to defray the expenses of translating, transcribing, indexing and transmitting to Her Majesty in Council, a correct copy of the whole record of the said appeal.

(Signed) A. T. FORBES,
Dy. Registrar,
Appellate Side.

To
J. G. SMITH, ESQUIRE,
Advocate.

No. 56. Petition by the Plaintiff praying that his appeal to Her Majesty in Council may be declared admitted, 22nd January 1895.

No. 56.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Memorandum of Civil Miscellaneous Petition under section 603 *of Act XIV of* 1882, *the Code of Civil Procedure.*

In the High Court of Judicature at Madras.

Appeal Suit No. 58 *of* 1893.

In the High Court of Judicature at Madras.

Civil Miscellaneous Petitions Nos. 1219 *and* 1220 *of* 1894.

In the High Court of Judicature at Madras.

Civil Miscellaneous Petition No. 117 *of* 1895.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili ... ... *(Appt. Petr.) Petr.*

versus

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 56. Petition by the Plaintiff praying that his appeal to Her Majesty in Council may be declared admitted, 22nd January 1895.—*concluded.*

Sri Inuganti Bhavayyammi Garu, a ward under the Court of Wards represented by the Collector of Vizagapatam, agent to the Court of Wards. } (*Respt. Counter-Petr.*) *Counter-Petr.*

SHEWETH:—

1. That upon the said C. M. Petitions Nos. 1219 and 1220 of 1894, this Honorable Court, under section 600 of Act XIV of 1882, the Code of Civil Procedure, granted certificate on 18th December 1894 that this case fulfils the requirements of section 596 of the said Civil Procedure Code and is a fit one for appeal to Her Majesty in Council.

2. That, on the 16th January 1895, the Petitioner, under section 602 of the said Civil Procedure Code, gave security as required by the rules of this Honorable Court, *viz.*, Rs. 4,000 for the costs of the Respondent and a deposit of Rs. 500 towards the amount required to defray the expense of translating, transcribing, indexing, printing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, for which amount the Deputy Registrar has granted his certificate.

The Petitioner therefore prays

3. That the High Court of Judicature at Madras under section 603 of the said Civil Procedure Code will declare the appeal admitted and give notice thereof to the Respondent and transmit to Her Majesty in Council under the seal of the Court a correct copy of the said record.

Dated 21st / Presented on 22nd } January 1895.

(Signed) JOHN G. SMITH,
Counsel for the Petitioner.

No. 57.

No. 57. Order declaring the Plaintiff's appeal to Her Majesty in Council admitted, 1st March 1895.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Friday, the first day of March,

One thousand eight hundred and ninety-five.

PRESENT:—THE HONORABLE MR. JUSTICE BEST.

AND

THE HONORABLE MR. JUSTICE SUBRAHMANIA AIYAR., C. I. E.

Civil Miscellaneous Petition No. 117 *of* 1895.

Sri Rajah Venkata Sveta Chalapati Ranga Rao Bahadur Garu, Rajah of Bobbili. } *Petitioner.* (*Appellant in Appeal No.* 58 *of* 1893 *and Petitioner in Civil Miscellaneous Petition No.* 1219 *of* 1894.)

Application stating that, in accordance with the provisions of section 602 of Act XIV of 1882, the Petitioner has deposited a sum of Rs. 4,000 as security for

Deputy Registrar.

RECORD.

PART II.

In the High Court of Judicature at Madras.

No. 57. Order declaring the Plaintiff's appeal to Her Majesty in Council admitted, 1st March 1895.—*concluded.*

the costs of the Respondent in the appeal sought to be preferred by the Petitioner to Her Majesty in Council against the decree of this Court in Appeal No. 58 of 1893, dated 4th April 1894, and that he has also deposited a further sum of Rs. 500 to defray the expenses of preparing a copy of the record of the said appeal for transmission to Her Majesty in Council, and praying that, under section 603 of Act XIV of 1882, the High Court will be pleased to declare his appeal to Her Majesty in Council admitted, give notice thereof to the Respondent and transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record.

This application coming on for orders: Upon perusing the application and upon hearing the arguments of Mr. J. G. Smith, Counsel for the Petitioner; and it appearing from the certificate of the Deputy Registrar of this Court, dated 17th January 1895, that the Petitioner has fulfilled the requirements of section 602 of Act XIV of 1882 in regard to giving security for the costs of the Respondent and making deposit of the amount required to defray the expense of preparing a copy of the record for transmission to Her Majesty in Council; this Court doth hereby declare that the appeal of the Petitioner to Her Majesty in Council against the decree of this Court in Appeal No. 58 of 1893 is admitted; and this Court doth further order that notice thereof be sent to the Respondent and that a correct copy of the record of the said appeal be transmitted to Her Majesty in Council under the seal of the Court.

By the Court.

(Signed) A. T. FORBES,
Deputy Registrar,
Appellate Side.

To

The District Judge of Vizagapatam.

A. 58—24

PART III.

IN THE PRIVY COUNCIL.

No. 58.

GROUNDS OF APPEAL.

That the decree is wrong in law and against the weight of evidence for the following amongst other reasons.

1. The original deed of gift of 5th April 1848 was duly stamped under the provisions of the stamp rules then in force and the High Court and the Lower Court were wrong in not having allowed the Plaintiff to tender in evidence, a copy of the said deed which was produced by the Plaintiff.

2. Even if the District Judge and High Court were right in holding that the original of the copy tendered in evidence was insufficiently stamped they were not warranted in declining to receive secondary evidence of the original grant and it was competent to admit the copy in evidence on receipt of penalty under the provisions of the stamp act.

3. The Lower Courts were wrong in taking into consideration exhibit I, dated 9th April 1835, and exhibit II, dated 7th January 1835, for the purpose of ascertaining the value of the property conveyed by the gift of 5th April 1848.

4. The Defendant while admitting in her written statement the grant of 1848 in favour of Plaintiff's maternal grandfather, pleaded that the said grant was qualified by a condition that the property was to revert on the death of the donee without male issue to the donor. The Lower Courts ought, on these pleadings, to have held that the Plaintiff might rely on the Defendant's admission in her written statement in proof of the grant of 1848 without adducing evidence and that the *onus* was on the Defendant to prove the condition alleged to have been annexed to the grant and that the same was valid and binding on the Plaintiff. The admissions contained in exhibit XIV made by Plaintiff's mother and exhibit XVI made by Plaintiff's maternal grandmother that the gift was conditional do not bind the Plaintiff as he claims as reversionary heir to the last male holder, namely his maternal grandfather.

5. The re-transfer by Plaintiff's maternal grandmother in favour of Sri Raja Sveta Chalapati Ranga Rao carried out by the Collector at her request on 3rd May 1856 was an alienation by Plaintiff's maternal grandmother of an estate

Deputy Registrar.

in which she had only a limited interest and cannot bind the Plaintiff in the absence of proof that such alienation was for proper purposes; the *onus* of proof on this point was on Defendant and has not been discharged.

6. The High Court was wrong in holding that it was necessary for the Plaintiff to prove collusion between his maternal grandmother and his paternal grandfather.

7. If the High Court are right in holding that the Plaintiff was bound to prove the said collusion, the evidence recorded in the case was reliable and no sufficient grounds have been made out for discrediting it.

8. The High Court erred in holding that, assuming there was no collusion between Appellant's paternal grandfather and maternal grandmother, the Plaintiff's suit was barred by limitation.

HIGH COURT OF JUDICATURE
AT MADRAS,
1st August 1896.

Deputy Registrar,
Appellate Side.

In the Privy Council.

ON APPEAL FROM THE HIGH COURT OF JUDICATURE AT MADRAS.

BETWEEN

SRI RAJAH VENKATA SVETA CHALAPATI RANGA RAO BAHADUR, Rajah of Bobbili... *Appellant.*

AND

SRI INUGANTI BHAVAYYAMMI GARU, a ward under the Court of Wards represented by their Agent the Collector of Vizagapatam ... ...*Respondent.*

RECORD OF PROCEEDINGS.

Syed Shaik Karim.

Rec'd Sept 17th 1889
Memo in the Privy Council Appeals

CONFIDENTIAL.

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E.O. mis No 394 of 22 January 1897

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the Rt Hon the Sec
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22/1/97

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Issue 29/1/97

Des'd Despatch Endorsed 29/1/97

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The Rt Hon the Sec
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Re

The judgment of the
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in the case.

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