Revenue (189/) Department.

ROUTINE SERIES.

G.O., No. 617.

DATED 24th March 97.

[Despatch Abstract.].

INFORMING K. Subbadramma, late Kannam Peda Uppalam Village, Sanivaiddi Taluk, Vizagapatam District, that, under section 23 of Madras Act III of 1895, as amended by Act of 1897, no appeal lies to Government.

BACK PAPERS.

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

FURTHER PAPERS.

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

Copy

Lr. ase No. 2525

1897.

From

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

To

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

GOVERNMENT OF MADRAS 17 MAR 97

G.O. 617 R. 24-3-97

Dated 15
Despatched 16
Received

March 1897.

SEC. GOVT. MADRAS 1 APR 97 REV. DEPT.

Enclosures. —

Subject.

Praying that under the peculiar and equitable circumstances of the case her Revision-Petitions may be disposed on merits or transferred to the Board of Revenue, Land Revenue Department, instead of being kept pending till the passing of and ultimately rejected under, the Bill to amend the Madras Hereditary Village Offices Act III of 1895.

BACK PAPERS.

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

FURTHER PAPERS.

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

The Honourable A. Butterworth Esq. for favour of perusal.

To

His Excellency The Governor-in-Council,

FORT ST. GEORGE,

MADRAS.

The humble supplemental Revision Petition of KROVVIDI SUBHADRAMMA, claimant to the Curnamship of No. 85, Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

MOST RESPECTFULLY SHEWETH:—

I. That Your Excellency's Petitioner has submitted to His Excellency in Council three * Petitions as per margin setting forth her claims to the Curnamship of No. 85, Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District, to which she is entitled as against the Counter-Petitioner Rayavarapu Venkataramanayya, minor, represented by V. Sarraju.

* (1) On 25th November 1896 a printed Petition with 52 Enclosures, (2) on 6th January 1897 a supplemental Petition with three new Enclosures, and (3) on 29th January 1897 a petition with a Memorandum containing succinctly the salient points of the case.

II. That Petitioner learns, with much regret, that her petitions, along with those of some others, are kept pending the passing, into Act, of the Bill to amend the Madras Hereditary Village Offices Act III of 1895 in view to their being ultimately rejected under Section 2 of the proposed Bill.

III. That Petitioner's case is a very peculiar one, entitled to special and equitable consideration at the hands of His Excellency in Council: that it was unfavourably disposed of on an *erroneous view of facts, to wit*, that the family was undivided, a finding the fallacy of which is exposed at length in para IV of her printed Petition, that had the case been merely disposed of according to the *law* then in force and had Petitioner's ground of the Revision Petitions been only a subsequent change in the *law* on the subject, her Revision Petitions may not unreasonably be rejected along with similar petitions from other individuals, that, on the other hand, Petitioner's main, if not the sole, ground is that the view taken on a question of *fact, i. e.* about the family being undivided, is entirely erroneous and unsupported by documentary evidence.

IV. That Petitioner submits that, even on other grounds also, she has preferential claims to the post over the Counter-Petitioner.

V. That Petitioner's case is thus entitled to pity and equitable consideration at the hands of His Excellency in Council.

VI. That Petitioner, therefore, most humbly and respectfully prays that her Petitions may, instead of being ordered to still lie over pending till, and rejected after, the passing of the Bill to amend the Madras Hereditary Village Offices Act III of 1895, be kindly taken up with as little delay as possible and, as allowed by the law now in force, kindly disposed of on *merits* on a calm consideration, or in the event of His Excellency in Council not being disposed to attend any longer to such matters themselves, that they may be kindly transferred to the Honorable the Board of Revenue (Land Revenue Department) for disposal.

For which act of Mercy Petitioner shall, as in duty bound, ever pray.

(mark of) KROVVIDI SUBHADRAMMA,
Claimant to the Curnamship of
No. 85, Peda Uppalam, Sarvasidhi Taluk,
Vizagapatam District.

NARSIPATAM,
15 March 1897.

F. S. M. PRESS, VIZAG:—11-3-97:—19.

1896.

FROM

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

To

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Dated 26
Despatched 27
Received } November 1896.

ENCLOSURES:

1 Appendix,
1 List,
and 50 Enclosures as per List.

SUBJECT.

Submits Revision Petition regarding the Karnamship of No. 85 Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

To

A. Butterworth Esq. C.S.

For favour of perusal.

To

His Excellency the Governor in Council,

FORT SAINT GEORGE,

MADRAS.

The humble Revision Petition of Krovvidi Subhadramma, claimant to the Office of Karnam of No. 85, Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

Most Humbly Sheweth,

1. Petitioner begs to approach His Excellency in Council with this humble Revision Petition and prays that His Excellency in Council may be pleased, under the peculiar and equitable circumstances of the case, to intercede on Petitioner's behalf, and under Section 6 of the Madras Regulation VI of 1831, to reverse and modify the orders of the Honorable Board of Revenue, Land Revenue Department, conveyed in their *Proceedings, dated 1st. May 1895, No. 2,181 Mis: wherein they declined to reconsider their former †Proceedings of the 27th September 1894, No. 5,406, Mis: and thus shut the Petitioner from the Karnamship of Peda Uppalam Village, which her deceased father, having in his own right, as the eldest of the daughter's sons, inherited it from his maternal grandfather, had held for nearly 50 years till his death in 1887 solely and to the exclusion of all others, and to which, as his daughter and sole heir, Petitioner is entitled to succeed, in preference to Counter-Petitioner, Rayavarapu Venkataramanayya, whose father had no rights to it as against Petitioner's father and who, *a fortiori*, had none whatever against Petitioner.

*Ex. No. 20.
†Ex. No. 18

The petition being necessarily lengthy, Petitioner begs leave te refer, succinctly, at the outset, to the arrangement of the Petition.

It is as under:—

I. Preliminary.

II. Possible preliminary objection about the admissibility of the Revision Petition.

III. Previous history of the case.

IV. Family divided and not undivided.

V. Revision of village establishments and alleged consequent abatement of appeal.

VI. Alleged extinction of Mirasi rights owing to change in the constitution of the village and to reduction in the number of Karnamas.

VII. Alleged ineligibility, being female, of Petitioner to be registered as Karnam.

VIII. Counter-petitioner having been in office for more than three years not a bar for his being ousted.

IX. Objections to which Counter-petitioner's claims are subject.

X. Conclusion.

II. Before entering into the merits of the case, Petitioner begs leave to treat of the preliminary technical objection that may possibly be raised against her petition. Sec. 6 of Reg. VI. of 1831 gives power to His Excellency in Council to revise the orders of the Board of Revenue, and as a matter of natural consequence, affords a right to aggrieved parties to submit such Revision petitions, and this right, which is highly valued all over the country, and which, combined with heridatary right, gives much importance to the otherwise insignificant village offices, is one *vested by law* and, as such, cannot be taken away by the mere repeal of the Regulation by the Madras Act III. of 1895, seeing that, in the latter Act, there are no words expressly taking away the said vested right. Petitioner is supported in this equitable and time-honored construction of the statutes by a G. O. of July 1896, published in the Fort St. George Gazette of 28th July 1896, Part I, Page 904, as item No. 11, and published at length in the Madras Mail of the 30th July 1896, page 3, Col 5. It is true that there is a Bill on the *tapais* whereby it is sought to apply the provisions of Sec. 23 of Act III of 1895 in disposing of appeals in cases where, though the original suits had been instituted under the Regulation, the Appeal and Revision petition come up for disposal *after* the coming, into force, of Act III of 1895. But the very fact that the same has not been, and, as rightly decided by Government, could not legally be, effected by a mere departmental order, of itself, shows that, unless and until the proposed amendment Bill is passed into law, effect cannot be legally given to it. Petitioner also learns, with regret, that the Bill proposes to validate all orders passed since the date of coming into force of the Act III of 1895 and on the assumption of its applicability to such appeals. This practically takes away vested rights—a power which, no doubt, can be exercised by His Excellency in Council, but only in those exceptional cases where public interests demand such unusual step, and this requisite is not forthcoming in the contemplated piece of legislation. One can count on one's fingers the cases similar to the present, where the original suit having been filed under the Regulation, the appeal and revision petition come up for disposal now, and the parties, having been, all this time, encouraged to hope for redress according to the equitable construction of the statutes above referred to, will receive a sudden shock by the deprivation of their rights by such unusual procedure. Petitioner, with other and similar persons, is fully sanguine, that His Excellency in Council will recognize the inequitability of giving *retrospective* effect to the contemplated enactment. At all events, Petitioner earnestly begs and hopes that the provisions of Regulation VI, 1831 and of the orders issued thereunder, will be given effect to in her case as her present Revision Pitition will be received, if not also decided by His Excellency in Council, *before* the passing of the proposed Amendment Bill into Act.

III. Petitioner next begs permission to state briefly the previous history of the case. For a long time there were two separate villages in the Sarvasidhi Taluk, named Peda Uppalam and China Uppalam. They remained unaffected by the Revenue Survey and Settlement operations. During the Revision, also, of village establishments, in 1893, they were unaffected, the only thing done being that they were named the Peda Uppalam group. Beyond this, there were no changes whatever up to date: no alteration in the village limits, no splitting and no change in the number of village appointments. The accounts of the two Villages are, to this day, maintained

separately. This will be found discussed more at length in its appropriate place, vide Para. VI infra. The remaining facts connected with the past history of the case are undisputed and will be found fully detailed in Appendix *A.* to this petition, from which His Excellency in Council will be pleased to observe that, ever since attaining majority in 1890, Petitioner has been continually petitioning and suing about the Karnamship, so that no *laches* whatever can be imputed to her.

IV. It will be observed that the Head Assistant Collector's (a)decision was reversed in the Collector's (b)Proceedings dated 10th May 1894 on the ground that the family was undivided. Petitioner begs to state that it is a mistake and that the family is a divided one as explained below:— (a) Ex. 13. (b) Ex. 14.

(*a*) Exhibits 21 & 22.—This consists of public copies of two (c)lists, one for each of the villages, filed in 1866, before the Principal Assistant Collector, by Petitioner's father, by Counter-petitioner's father and their three other brothers, at the foot of each of which there are remarks to the effect that they had divided among themselves all the property they had, including the Service Inam lands and that they had been enjoying their respective shares. These lists were signed by all the brothers including the Counter-petitioner's father. (c) Exs. 21 & 22.

(*b*) Exhibit 23.—This is the public copy of the (d)Proceedings, No. 45, dated 7th April 1866, of the Principal Assistant Collector, passed on the above (Exhibit 22) and recognizing the division with a proviso that the shares were to be enjoyed for their respective lives and then to revert to the Kurnam. (d) Ex. 23.

(*c*) Exhibits 24, 25 & 26. These are the public copies of the (e)petitions presented by Petitioner's father, on 23rd September 1877, and 17th November 1877, to the Principal Assistant Collector, praying that orders may be issued to the Tahsildar of Sarvasidhi to make over to him the respective shares enjoyed by Counter-petitioner's father and another brother Venkatachellam, both being dead, and thus give effect to the orders passed in Exhibit No. 23, vide clause (*b*) supra. These were (f referred to the Tahsildar for report. (e) Exs. 24 & 25. (f) Ex. 26

(*d*) Exhibit 27. This is the puble copy of the (g) Takid, issued on 12th March 1878, to the Tahsildar by the Principal Asst. Collector directing him to make over to the Petitioner's father the Service Inam lands in the enjoyment of his two deceased brothers (including counter-petitioner's father) and alluded to in Exs. 24, and 25, vide clause (c) supra. An endorsement was also sent to the Petitioner's father to the same effect. In compliance with this order, the Tahsildar, through the Revenue Inspector P. Ramanna Garu, who is still alive, had the lands made over to Petitioner's father and the same was reported to the Principal Assistant Collector. To sum up, these seven Exhibits, Nos. 21 to 27, conclusively prove that the division was made in, if not before, 1866 when it was approved by the Principal Asst. Collector, that it continued till 1877, when, on the death of Counter petitioner's father and another of the brothers, some correspondence took place, and effect was given to the Principal Assistant Collector's order of 7th April 1866 (Exhibit 23) by making over to the Petitioner's father (the Karnam) the Service Inam lands in the enjoyment of his deceased brothers. Thus a series of public documents have established, in unmistakeable terms, the facts of the division of the family having been done so long back as 1866 and of its being continued ever since. (g) Ex. 27.

(*e*) Exhibit 29. This is an extract from (h)Register A of the Village for F. 1269; it is clearly stated that the Petitioner's father was enjoying the Mirasi alone and to the exclusion of his other brothers as he inherited them as (h) Ex. 29.

the eldest among the eldest daughter's sons of Petitioner's father. This was for Fasli 1259 corresponding to 1859-60. Thus the division was made long before the date of Exhibit A. (1866).

(a) Ex: 30.

(*f*) Exhibit 30. This is extract from the [a]Land Register of the Village prepared by the Revenue Survey Department which was employed in the District from 1883 to 1888. Col. 8 is headed 'Names of Pattahdars or Inamdars', and in it are entered the names of persons in the enjoyment of the lands. It includes the names of the three then surviving brothers of Petitioner's father, *i.e.* P. Kamaraju, Ramamurti and Bhaskararayadu, for they were in the enjoyment of shares of Service Inams as per Exhibits 21 to 23 referred to in clauses (*a*). & (*b*). supra. The names of the remaining two brothers of Petitioner's father *i.e.* China Venkatachellam and Narasimham, are omitted, because their shares of Service Inams were made over to Karnam(Petitioner's father) on their death agreeably to the orders contained in Exhibit No.23. The name of Narasimham's son Venkata Ramayya (Counter-petitioner) is omitted, because, after his father's death, the shares of Service Inams in his enjoyment were not continued under his enjoyment but were made over to Appellant's father as just stated. Petitioner begs to treat, in the next four clauses (g) to (j), of the evidence adduced for making out that the family was undivided.

(b) Ex: 31, (c) Ex: 34,

(*g*) Much stress was laid on two bonds dated respectively 5th [b]January 1870 and 19th [c]March 1881, jointly executed, the first by Petitioner's father Counter-Petitioner's father, their three other brothers and the father of all the five, and the second by four of the said persons, the remaining two Venkatachelam and Narasimhulu (Counter-Petitioner's father) being dead. The second of these documents had nothing to do with the Counter-Petitioner, and there is no reason why the Counter-Petitioner did not join, or was not joined, in the transaction if, as alleged, the family *were* undivided. Thus, the first is the only bond, in the execution of which the Counter-Petitioner's branch joined. It would, indeed, be a great jump of logic to infer, from only one such document, that the family was undivided. The proper inference should be just the reverse: the fact that, during the period of about fifty years, *only one* such document was executed shews that it was more an, in fact the only, exception than the rule, the respective brothers having been apparently carrying on separate dealings on all other occasions. Joint execution of a bond is not a good, and much less the sole, criterion for inferring the fact of the executing parties being joint, and in support of the assertion, Petitioner can adduce numberless instances. One notable instance he had already cited and filed the [d]documents connected with it. There the Petitioner's father, Petitioner's paternal grandfather and a third man Yilla China Appayya, jointly executed a bond on 6th January 1880. If the contention of the Counter-Petitioner, upheld by the Head Assistant Collector, be accepted, the third man, a toddy drawer, must be considered a joint member of the Petitioner's father's family! But it is needless to dilate further on the point.

(d) Ex: 32 & 33,

(*h*) Great importance is also given to the fact that the Cowls and Kadapas were respectively executed by, and in favour of the brothers and their father jointly. In the first place, they do not specify the executants as members of a joint family. In the second place, it is to the advantage of such divided persons, owning specific and separate shares of lands, to lease out the lands, whether as a whole, or by fields, all the owners jointly, the result being greater income, absence of feuds which would be endless if they had each leased out to separate tenants, and good repair of the lands leading to greater income. Petitioner can adduce evidence of numberless cases of the sort, in some of which the lessors had no other relationship than that, one of them has, by purchase, &c. become the

owner of the share of a member of the family. Like the joint execution of bonds, this ground of joint execution of Kadapas, also, is untenable for proving that no division took place. Moreover, on a close examination of the Kadapas, the division is clearly established rather than negatived. In all the Kadapas produced by Counter-petitioner and executed after 1878 when the lands of his father were made over to Petitioner's father, *i.e.* those dated (1) 19th [a]March 1881, (2) 13th day of the bright fortnight of Chaitram of the year Tarana corresponding to about [b]April 1884 and (3) 22nd [c] July 1886, the names of both Narasimham & his son Venkataramayya are omitted. The reason is not far to seek. As explained in clause (*d*) supra, among others, the share of Service Inam lands in the enjoyment of Narasimham was, on his death, made over to Petitioner's father (the Karnam), and there is an end of the matter as far as Counter-Petitioner is concerned.

(a) Ex: 38.
(b) Ex: 39.
(c) Ex: 40.

(*i*) Ridiculous importance is attached by the Head-Assistant Collector to the statements made by the witnesses on behalf of the Counter-Petitioner that Petitioner's father and others (his brothers) had been, for some time, taking their meals jointly. The total number of witnesses examined on his behalf is ten, of whom [d]six were perfect strangers to the previous transactions of the parties, the remaining four only having been, in some way or other, connected with the 5 Exhibits Nos. 31, 34 and 38 to 40. If the family were really undivided, Counter-Petitioner would have proved it by the evidence of all the fifteen persons (instead of four only) who were connected with the said five Exhibits,namely of the executants of Exhibits Nos. 31 and 34,of the executing parties in Exhibits Nos. 35 to 40 and of the witnesses, including the writers, of all the 5 Exhibits. Moreover, it is only oral evidence and that, of persons who, besides being of little or no *status*, are not expected to know about it. Three of the ten witnesses are [e]Kshatrias,while three more are [f]Sudras, in all six non-Brahmins, on whose assertions about joint partaking of meals no reliance can be placed, as the parties who are Brahmins cannot be expected to take meals in their presence. The remaining [g]four persons, though Brahmins, are reputed Vaidikis, a class eking out their livelihood by professional beggary, not to speak of the fact that three out of the four were perfect strangers to the previous transactions of the parties. Further, many of the eleven persons having knowledge of the previous transactions of the parties and left unexamined by Counter-Petitioner, are more respectable than those actually examined on his behalf. On the other hand, Petitioner proved separation of meals by the evidence of three respectable witnesses, viz : the 1st Rayavarapu Perraju, a cousin of Petitioner's father, the 2nd Ammu Buvvana Garu, a Brahmin gentleman of respectability and erudition and a friend of the Petitioner's father's family, and the 3rd Yella Swami, the Pettandar of the village and a man of considerable means. Petitioner regrets that he gave up the examination of some more witnesses on his behalf as unnecessary on the advice of his Vakil. It is for His Excellency in Council to decide which evidence is entitled to greater weight, if, indeed, any weight can be attached to the evidence on behalf of the Counter-Petitioner commented on above, and whether, in the face of the public documents, Exhibits Nos. 21 to 27, establishing the division in unmistakeable terms as submitted in clauses (*a*) to (*f*) supra, such oral evidence can be taken to override them and the inference of the family being joint ventured upon.

(d) Nos. 1, 2, 5, 7, 8 & 9.
(e) 1st, 2nd & 3rd.
(f 4th, 9th, & 10th.
(g) 5th, 6th, 7th & 8th.

(*j*) The Collector observes that the division of Village Service Inam lands, being invalid, cannot be accepted as evidence. The Principal Assistant Collector made the arrangement and the shares lapsed to the working Karnam on each share-holder's death. It was, doubtless, allowed by the orders then in force and subsequent orders, if any, to the contrary, cannot affect their validity. Even granting the contrary, it may be invalid

as an alienation, but is very good, in fact the best, evidence of division whereas, in the present case, the fact of division is in issue. A document, though invalid for the immediate purpose for which it is executed, is relevent as evidence of collateral facts.

(*k*) To sum up: the public documents produced by Petitioner point to division having taken place previous to Fasli 1269 (Exhibit 29) and received the Principal Assistant Collector's approval in 1866 (Exhibit 23), and continued down to 1878 when it received fresh evidence by the shares of two of the brothers who were deceased being made over to Petitioner's father by the Revenue Inspector under the orders of the Principal Assistant Collector (Exhibits 27 and 28); the same is also corroborated by the Land Register prepared by the Revenue Survey Department (Exhibit 30); the joint execution of bonds and Cowls is untenable as evidence of the brothers being joint; the assertion that they took meals jointly is not to be relied upon, the evidence adduced by Counter-Petitioner being meagre, while the reverse was proved by Petitioner; and lastly the division of Village Service Inams, far from being inadmissible on account of its supposed invalidity, is the very best evidence of division of the family. Petitioner hopes that His Excellency in Council may find, on the above, that the family *was divided*, and that, as daughter of the last holder, Petitioner's claims for the post are better than those of the Counter-Petitioner who is his *divided* brother's son.

V. In this and the two succeeding paras Petitioner begs to treat of the grounds of the Board's decision. The foremost of the grounds recorded by the Board is that the Revision of Village Establishments having been introduced subsequent to the Head Assistant Collector's decision, the Petitioner's suit abated. In reply, Petitioner begs to refer His Excellency in Council to the following orders:—

(1) B. P. No. 73, dated 17-2-92 (para 4). Revision appointments not vested with any prerogative as before.

(2) G. O. No. 927, Revenue Department,, dated 23-10-93, para. 2. Prospective effect only, and not retrospective effect, should be given to the orders about revision.

(NOTE:— The original suit was decided in October 1890, vide Exhibit No. 1.)

(3) G. O. No, 1004, Revenue Department, dated 21-11-93, para 2 (i).

VI. The next ground of the Board's decision was that the constitution of the village having been affected and the number of Karnams reduced at the Revision, all previously existing Mirasi rights have been extinguished.

There has been no change in the number of village offices. The case is similar to that of Sigatapu Ramaswami, the village Munsiff of Peda Uppalam, the principal village of the group in question, in disposing of whose appeal the Board, in their Proceedings, dated 12th November 1894, No. 6256 Mis., observed that the Appellant's Mirasi rights should be respected as there was no change at Revision in the number of Monegars, there being now a Monegar and an Assistant Monegar for the group as against two Monegars, before,for the two villages. Precisely the same is the case as regards the number of Karnams who are two as before,one of them, as in the case of Monegar, being now called Assistant to the other, vide B. P. No. 220, dated 28-4-90, laying down that the hereditary nature of village offices is not extinguished by the amalgamation of village offices in the Revision of village establishments. Moreover, G. O. No. 1168, Revenue Department, dated 24-11-92, applies only where the new villages are formed by clubbing or sub-dividing villages. Here no such thing was done.

VII. The third and last ground of the Board's decision was that, being a female, Petitioner is ineligible for appointment. Petitioner begs to state that, under the Regulation, there was no such disqualification or impediment and further relies on the following orders:—

(1) B. P. No. 949, dated 12-4-74.
(2) G. O. No. 3479 Mis: dated 14-6-86, communicated with
(3) B. P. No. 1517, dated 2-7-86.
(4) B. P. No. 225, dated 12-3-88.
(5) B. P. No. 73, dated 19-2-92, para. 2 (i).

VIII. It was once before urged, and may be repeated, that the Counter-Petitioner, having been in office for three years, cannot be ousted. In reply Petitioner begs to refer His Excellency in Council to the following orders:—

(1) G.O. No. 10 R.D., dated 4-1-92 (para 10) communicated with
(2) B. P. No. 73, dated 17-2-92.
(3) B. P. No. 10036, dated 20-12-82.

} Time during which suits, &c. under Regulation VI. of 1831 are prosecuted is excluded from the period of 3 years prescribed in para 7 of Board's Standing Order No. 172 (Old Edition).

IX. Having treated, at length, the various objections urged, now and before, against him, Petitioner next begs permission to advert, in this and the succeeding paras, to the objections to which Counter-Petitioner's claims are subject.

Appendix A makes it clear that the Karnamship belonged to another family known as Draksharamvaru. The last holder in that family was one Draksharam Venkanna, who died without male issue but with two daughters Kannamma and Venkamma, who, having been married respectively to Rayavarapu Venkatachellam and Venuturubilli Rayappa, had, by the time of their father's death, sons, who as daughter's sons of the deceased D. Venkanna, were his heirs. R. Kamaraju who was the eldest of the grandsons by Kannamma and V. Kamaraju who was the only grandson by Venkamma were his heirs according to both Hindu Law and departmental orders, and they were respectively appointed Karnams of the Peda Uppalam and China Uppalam villages. The Karnamship of the Peda Uppalam village having, thus, devolved on Petitioner's father in his own right and not through his father, his brothers (of whom Counter-Petitioner's father was one) had no right to a share in it as a matter of right. It was this consideration that led them to consent to, and the Principal Assistant Collector to order, the arrangement entered into by them all, out of courtesy and in deference to the wishes of their father, whereby the Service Inam Lands should be enjoyed in certain shares for their lives only and revert, on the death of each, to the working Karnam and the order about reversion was given effect to in 1878 by making over, to the Petitioner's father, the shares of the Counter-Petitioner's father and another. It is really surprising how, after all the above, Counter-Petitioner could advance any claims to the Karnamship and much less, how the authorites could have countenanced such feigned claims. Moreover, even granting that the Karnamship was conferred upon the Petitioner's paternal grand-father (as to which there is not an atom of evidence), Petitioner's father, as his eldest son, was entitled to it solely and to the exclusion of his other sons. Moreover, the Counter-Petitioner, being a Minor, could not be appointed to, and much less could not continue in, the office.

(1) B. P. No. 949, dated 12-4-74.
(2) G O. No 3479 R D., dated 14-6-86, communicated with
(3) B. P. No. 1517, dated 2-7 86.
(4) B. P. No. 225, dated 12 3-88.
(5) B. P. No. 73, dated 17-2-92, para 2 (i).

} X. For the foregoing reasons Your Excellency's Petitioner most humbly prays that she may be favoured with the Karnamship of Peda Uppalam, she being registered as Karnam and allowed to have the duties done by a deputy of her own choice subject to the approval of the nominee by the Revenue Authorities as allowed by the marginally noted orders.

For which act of Grace and Mercy, Your Excellency's Humble Petitioner shall, as in duty bound, ever pray.

NARSIPATAM,
November 1896.

KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of Peda Uppalam,
Sarvasidhi Taluk, Vizagapatam District.

APPENDIX A.

Previous History of the case from the commencement up to date (NOVEMBER 1896.)

The Karnamship of Peda Uppalam and China Uppalam orginally belonged to a different family from both Petitioner and Counter-Petitioner : the name of that family was Draksharamavaru. The last holder in that family was one Draksharama Venkanna,who died without male issue but with two daughters Kannamma and Venkamma, who, having been married respectively to Rayavarapu Venkatachalam and Venuturubilli Rayappa, had, by the time of their father's death, sons, who, as daughters' sons of the deceased D. Venkanna, were his heirs. R. Kamaraju, who was the eldest of the grandsons by Kannamma, and V. Kamaraju who was the only grandson by Venkamma, were his heirs according to both the Hindu Law and the departmental orders, and they were respectively appointed Karnams of Peda Uppalam and China Uppalam villages. The Karnamship of Peda Uppalam having thus devolved on Petitioner's father in his own right and not through his father, his brothers (of whom Counter-Petitioner's father was one) had no right to it. Petitioner's father Rayavarapu Kamaraju was Karnam for about 46 years from 1840 to 1886, when he died, leaving as his sole heir the Petitioner, his daughter aged about 14 years. Petitioner's mother having died before, Petitioner was in helpless condition, and taking advantage of the above state of things, one Rayavarapu Venkataramayya, a *divided* brother's son of the Petitioner's father, was brought on the scene by the maternal uncle and guardian Vaddiparti Sarraju who usurped the Karnamship with its emoluments. Soon after attaining her majority, Petitioner filed Regulation Suit No. 36 of 1890 in the Court of the Principal Assistant Collector who (a)dismissed it, vide para. 3 of my (b)petition to Board,Settlement, dated 29-1-91, on the ground that, Defendant, having held the office for more than 3 years, could not be ousted there-from. Against this Judgment, Petitioner sent up to the Board of Revenue on the(c) 29th January 1891, an appeal petition which was rejected by the Board in their (d)Proceedings No. 2877,Mis., dated 27th April 1891, on the ground that the post could not be conferred on the Petitioner, a female, when there were male members in the family. This Proceedings of the Board having unfortunately not reached the Petitioner, Petitioner addressed the Board a (e)reminder in September 1891, to which an (f)endorsement was sent referring Petitioner to Board's (g)Proceedings, No. 2,897 Mis., dated 27-4-91, already sent through the Collector. This endorsement is not forth-coming, but is referred to at length in Petitioner's (h)application, dated 9-12-92 for a copy of the said Proceedings, which, after a technical (i)objection and reply, was granted in Board's (j)Proceedings, No. 185, Routine, dated 26-1-93. After receiving the said (k)copy and gathering the necessary information, Petitioner addressed the Board an (l)appeal on 21-4-93 based on Board's Proceedings, dated 17-2-92, No. 73, with the result that (m)B. P. No. 1167 Routine, dated 9th May 1893, was sent to Petitioner informing him that orders were sent to him in Board's Proceedings, No. 2275, Mis., dated 13-4-93, to the Collector directing him to restore the suit to its former file and dispose of it on its merits as none of the objections made before was tenable. On the 27th June 1893, the Head-Assistant Collector delivered a (n)Judgment in Petitioner's favour. An appeal was presented thereupon by the Defendant to the Collector who remanded it for a finding on the question whether the family was divided or not. In his second inquiry, the Head-Assistant Collector erroneously thought that, though the division was made so long back as 1866, it was not carried out and passed (o)Judgment returning a finding that the family was undivided. The Collector delivered his (p)Judgment on 10-5-94 and observed that, under G. O., dated 6-5-93, No. 389, Revenue, according to which the Hindu Law of inheritence is applicable, Counter-

(a) Ex. 1.
(b) Ex. 2.
(c) Ex. 2.
(d) Ex. 3.
(e) Ex. 4.
(f) Ex. 5.
(g) Ex. 3.
(h) Ex. 6.
(i) Ex. 7.
(j) Ex. 8.
(k) Ex. 9.
(l) Ex. 10.
(m) Ex. 11.
(n) Ex. 12.
(o) Ex. 13.
(p) Ex. 14.

Petitioner, a male, was entitled to priorty over Petitioner, a female, as the family was an undivided one. Petitioner then (q)appealed to the Revenue Board, on 23-7-94, which after a (r)reference to Petitioner and his (s)reply thereto, was finally dismissed in Board's (t)Proceedings, dated 27-9-94, No. 5046 Mis. for reasons therein given. A (u)review petition to the Board met the same fate with the Board, vide their (v)Proceedings, dated 1st May 1895, No. 2181 Mis. Meanwhile Act III of 1895 was passed on 8-4-95, and brought into force from 1-10-95. Petitioner had a great mind to address His Excellency in Council, but there was Section 23 of the new Act staring in the face. Petitioner was thus in a fix and was agreeably surprised on hearing that a G. O. was passed in July 1896 as submitted in para II of the Petition and giving her an opportunity of doing so.

(q) Ex. 15.
(r) Ex. 16.
(s) Ex. 17.
(t) Ex. 18.
(u) Ex. 19.
(v) Ex. 20.

NARSIPATAM,
November 1896.

KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of the Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

List of Papers sent by Kravvidi Subhadramma, claimant to the Karnamship of Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District, with her Revision Petition, dated November 1896, to His Excellency the Governor in Council, Fort Saint George, Madras.

1. Judgment of the Principal Assistant Collector, Vizagapatam District, dated 28-10-90, in Regulation Suit, No. 36 of 1890.
2. Petition, dated 29-1-91, by Petitioner to Revenue Board, Settlement Department.
3. Board's Proceedings, dated 27-4-91, No. 2897 Mis. This is not forthcoming.
4. Reminder petition, dated—Sept. 91, to Board about her petition, dated 29-1-91 (Exhibit 2).
5. Endorsement by Board of Revenue, dated—on petition of September 91 (Exhibit 4).
6. Application, dated 9-12-92, by Petitioner to Board of Revenue (Board's Petition Register, No. 3843 of 1892).
7. Board's Proceedings, dated 19-12-92, No. 3,036 Rout: on her petition, dated 9-12-92. (Exhibit No. 6).
8. Petition, dated 1-1-93 replying the above (No. 7).
9. Board's Proceedings, dated 26-1-93, No. 185 Rout.
10. Appeal petition, dated 21-4-93, to Board L. R. by Petitioner.
11. Board's Proceedings, dated 9-5-93, No. 1167, Rout.
12. Judgment, dated 27-6-93 of the Head-Assistant Collector in Regulation Suit No. 36 of 90.
13. Second Judgment, dated 27-10-93 of do. do.
14. Collector's Judgment, dated 10-5-94 in Regulation Appeal No. 13 of 93.
15. Petition, dated 23-7-94 by Petitioner to Board (Board's Petition Register No. 2558 of 1894).
16. Board's Reference, dated 7-8-94 on Board's Petition Register, No. 2558 of 1894.
17. Petition, dated 22-8-94, of Petitioner to Board resubmitting records as per Exhibit 16.
18. Board's Proceedings, dated 27-9-94, No. 5406 Mis.
19. Revision Petition, dated to Board by Petitioner.
20. Board's Proceedings, dated 1-5-95, No. 2181 Mis.

EXHIBITS IN THE ABOVE LITIGATION.

21. List showing details of the shares, divided and respectively enjoyed by Rayavarapu Kamarazu and his brothers, in the Service Inam lands of the Karnamship of Peda Uppalam village.
22. Do. Do. China Uppalam village.
23. Proceedings of the Principal Assistant Collector, dated 7—4—66, No. 45.
24. Petition, dated 23—9—77 to Principal Assistant Collector by Petitioner's father Kamaraju.
25. Petition, dated 17—11—77 to do. do.
26. Principal Assistant Collector's endorsement, dated 29—1—78, No. 35 to Tahsildar.

27. Principal Assistant Collector's Takid to Tahsildar, dated 12-3-78, No. 364.
28. Principal Assistant Collector's Order, No. 50, date not given, but on or after 12-3-78.
29. Extract from A Register of the Peda Uppalam village for Fasli 1269.
30. Extract from the Land Register of the Peda Uppalam village.

BONDS AND KADAPAS.

31. Bond, dated 5-1-70.
32. Bond, dated 6-1-80.
33. Endorsement Bond, dated 28-9-81.
34. Bond, dated 19, 3, 81.
35. Cadapa, dated 8-4-70, No. 2.
36. Cadapa, dated 8-6-72, No. 4.
37. Cadapa, dated ఆంగిరస సంవత్సర ఆశ్వయుజ బ ౧౧, corresponding about October 72, No. 1.
38. Cadapa, dated 19-3-81, No. 3.
39. Cadapa, dated శార్వరి సంవత్సర చైత్ర శు ౧౧, corresponding about April 84, No. 5.
40. Cadapa, dated 22-7-86, No. 6.

DEPOSITIONS.

41.	Deposition of	D. Appalaraju,	1st	Witness for Defendant.	Six of these are Non-brahmins. The remaining four are Brahmins, it is true; but three of them were perfect strangers to the previous transactions of the parties.
42.	do.	A. Somaraju,	2nd	do.	
43.	do.	K. Appalaraju,	3rd	do.	
44.	do.	P. Nukayya,	4th	do.	
45.	do.	G. Yagnanarayana	5th	do.	
46.	do.	Y. Somayajulu,	6th	do.	
47.	do.	P. Chalamayya,	7th	do.	
48.	do.	A. Lakshminarayana Somayajulu	8th	do.	
49.	do.	V. Appadu	9th	do.	
50.	do.	P. Ademma.	10th	do.	

NARSIPATAM,
November 1896.

KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of the Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

S. S. M. PRESS, VIZAG—20-11-96.—18.

1896.

FROM

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

TO

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Dated 26
Despatched 27 } November 1896.
Received

ENCLOSURES:

1 Appendix,

1 List,

and 50 Enclosures as per List.

SUBJECT.

Submits Revision Petition regarding the Karnamship of No. 85 Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

The Honourable G. Stokes.
For favour of perusal

GOVERNMENT OF MADRAS
26 MAR 97
REVENUE DEPARTMENT

To

His Excellency the Governor in Council,
FORT SAINT GEORGE,
MADRAS.

The humble Revision Petition of Krovvidi Subhadramma, claimant to the Office of Karnam of No. 85, Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

MOST HUMBLY SHEWETH,

1. Petitioner begs to approach His Excellency in Council with this humble Revision Petition and prays that His Excellency in Council may be pleased, under the peculiar and equitable circumstances of the case, to intercede on Petitioner's behalf, and under Section 6 of the Madras Regulation VI of 1831, to reverse and modify the orders of the Honorable Board of Revenue, Land Revenue Department, conveyed in their *Proceedings, dated 1st. May 1895, No. 2,181 Mis: wherein they declined to reconsider their former †Proceedings of the 27th September 1894, No. 5,406, Mis: and thus shut the Petitioner from the Karnamship of Peda Uppalam Village, which her deceased father, having in his own right, as the eldest of the daughter's sons, inherited it from his maternal grandfather, had held for nearly 50 years till his death in 1887 solely and to the exclusion of all others, and to which, as his daughter and sole heir, Petitioner is entitled to succeed, in preference to Counter-Petitioner, Rayavarapu Venkataramanayya, whose father had no rights to it as against Petitioner's father and who, *a fortiori*, had none whatever against Petitioner.

*Ex. No. 20.
†Ex. No. 18

The petition being necessarily lengthy, Petitioner begs leave te refer, succinctly, at the outset, to the arrangement of the Petition.

It is as under:—

I. Preliminary.

II. Possible preliminary objection about the admissibility of the Revision Petition.

III. Previous history of the case.

IV. Family divided and not undivided.

V. Revision of village establishments and alleged consequent abatement of appeal.

VI. Alleged extinction of Mirasi rights owing to change in the constitution of the village and to reduction in the number of Karnamas.

VII. Alleged ineligibility, being female, of Petitioner to be registered as Karnam.

VIII. Counter-petitioner having been in office for more than three years not a bar for his being ousted.

IX. Objections to which Counter-petitioner's claims are subject.

X. Conclusion.

II. Before entering into the merits of the case, Petitioner begs leave to treat of the preliminary technical objection that may possibly be raised against her petition. Sec. 6 of Reg. VI. of 1831 gives power to His Excellency in Council to revise the orders of the Board of Revenue, and as a matter of natural consequence, affords a right to aggrieved parties to submit such Revision petitions, and this right, which is highly valued all over the country, and which, combined with heridatary right, gives much importance to the otherwise insignificant village offices, is one *vested by law* and, as such, cannot be taken away by the mere repeal of the Regulation by the Madras Act III. of 1895, seeing that, in the latter Act, there are no words expressly taking away the said vested right. Petitioner is supported in this equitable and time-honored construction of the statutes by a G. O. of July 1896, published in the Fort St. George Gazette of 28th July 1896, Part I, Page 904, as item No. 11, and published at length in the Madras Mail of the 30th July 1896, page 3, Col 5. It is true that there is a Bill on the *tapais* whereby it is sought to apply the provisions of Sec. 23 of Act III of 1895 in disposing of appeals in cases where, though the original suits had been instituted under the Regulation, the Appeal and Revision petition come up for disposal *after* the coming, into force, of Act III of 1895. But the very fact that the same has not been, and, as rightly decided by Government, could not legally be, effected by a mere departmental order, of itself, shows that, unless and until the proposed amendment Bill is passed into law, effect cannot be legally given to it. Petitioner also learns, with regret, that the Bill proposes to validate all orders passed since the date of coming into force of the Act III of 1895 and on the assumption of its applicability to such appeals. This practically takes away vested rights—a power which, no doubt, can be exercised by His Excellency in Council, but only in those exceptional cases where public interests demand such unusual step, and this requisite is not forthcoming in the contemplated piece of legislation. One can count on one's fingers the cases similar to the present, where the original suit having been filed under the Regulation, the appeal and revision petition come up for disposal now, and the parties, having been, all this time, encouraged to hope for redress according to the equitable construction of the statutes above referred to, will receive a sudden shock by the deprivation of their rights by such unusual procedure. Petitioner, with other and similar persons, is fully sanguine, that His Excellency in Council will recognize the inequitability of giving *retrospective* effect to the contemplated enactment. At all events, Petitioner earnestly begs and hopes that the provisions of Regulation VI, 1831 and of the orders issued thereunder, will be given effect to in her case as her present Revision Pitition will be received, if not also decided by His Excellency in Council, *before* the passing of the proposed Amendment Bill into Act.

III. Petitioner next begs permission to state briefly the previous history of the case. For a long time there were two separate villages in the Sarvasidhi Taluk, named Peda Uppalam and China Uppalam. They remained unaffected by the Revenue Survey and Settlement operations. During the Revision, also, of village establishments, in 1893, they were unaffected, the only thing done being that they were named the Peda Uppalam group. Beyond this, there were no changes whatever up to date: no alteration in the village limits, no splitting and no change in the number of village appointments. The accounts of the two Villages are, to this day, maintained

separately. This will be found discussed more at length in its appropriate place, vide Para. VI infra. The remaining facts connected with the past history of the case are undisputed and will be found fully detailed in Appendix *A*. to this petition, from which His Excellency in Council will be pleased to observe that, ever since attaining majority in 1890, Petitioner has been continually petitioning and suing about the Karnamship, so that no *laches* whatever can be imputed to her.

IV. It will be observed that the Head Assistant Collector's (a)decision was reversed in the Collector's (b)Proceedings dated 10th May 1894 on the ground that the family was undivided. Petitioner begs to state that it is a mistake and that the family is a divided one as explained below:— (a) Ex. 13. (b) Ex. 14.

(*a*) Exhibits 21 & 22.—This consists of public copies of two (c)lists, one for each of the villages, filed in 1866, before the Principal Assistant Collector, by Petitioner's father, by Counter-petitioner's father and their three other brothers, at the foot of each of which there are remarks to the effect that they had divided among themselves all the property they had, including the Service Inam lands and that they had been enjoying their respective shares. These lists were signed by all the brothers including the Counter-petitioner's father. (c) Exs. 21 & 22.

(*b*) Exhibit 23.—This is the public copy of the (d)Proceedings, No. 45, dated 7th April 1866, of the Principal Assistant Collector, passed on the above (Exhibit 22) and recognizing the division with a proviso that the shares were to be enjoyed for their respective lives and then to revert to the Kurnam. (d) Ex. 23.

(*c*) Exhibits 24, 25 & 26. These are the public copies of the (e)petitions presented by Petitioner's father, on 23rd September 1877, and 17th November 1877, to the Principal Assistant Collector, praying that orders may be issued to the Tahsildar of Sarvasidhi to make over to him the respective shares enjoyed by Counter-petitioner's father and another brother Venkatachellam, both being dead, and thus give effect to the orders passed in Exhibit No. 23, vide clause (*b*) supra. These were (f referred to the Tahsildar for report. (e) Exs. 24 & 25. (f) Ex. 26

(*d*) Exhibit 27. This is the puble copy of the (g) Takid, issued on 12th March 1878, to the Tahsildar by the Principal Asst. Collector directing him to make over to the Petitioner's father the Service Inam lands in the enjoyment of his two deceased brothers (including counter-petitioner's father) and alluded to in Exs. 24, and 25, vide clause (c) supra. An endorsement was also sent to the Petitioner's father to the same effect. In compliance with this order, the Tahsildar, through the Revenue Inspector P. Ramanna Garu, who is still alive, had the lands made over to Petitioner's father and the same was reported to the Principal Assistant Collector. To sum up, these seven Exhibits, Nos. 21 to 27, conclusively prove that the division was made in, if not before, 1866 when it was approved by the Principal Asst. Collector, that it continued till 1877, when, on the death of Counter petitioner's father and another of the brothers, some correspondence took place, and effect was given to the Principal Assistant Collector's order of 7th April 1866 (Exhibit 23) by making over to the Petitioner's father (the Karnam) the Service Inam lands in the enjoyment of his deceased brothers. Thus a series of public documents have established, in unmistakeable terms, the facts of the division of the family having been done so long back as 1866 and of its being continued ever since. (g) Ex. 27.

(*e*) Exhibit 29. This is an extract from (h)Register A of the Village for F. 1269; it is clearly stated that the Petitioner's father was enjoying the Mirasi alone and to the exclusion of his other brothers as he inherited them as (h) Ex. 29.

the eldest among the eldest daughter's sons of Petitioner's father. This was for Fasli 1259 corresponding to 1859-60. Thus the division was made long before the date of Exhibit A. (1866).

(a) Ex: 30.

(*f*) Exhibit 30. This is extract from the [a]Land Register of the Village prepared by the Revenue Survey Department which was employed in the District from 1883 to 1888. Col. 8 is headed 'Names of Pattahdars or Inamdars', and in it are entered the names of persons in the enjoyment of the lands. It includes the names of the three then surviving brothers of Petitioner's father, *i.e.* P. Kamaraju, Ramamurti and Bhaskararayadu, for they were in the enjoyment of shares of Service Inams as per Exhibits 21 to 23 referred to in clauses (*a*). & (*b*). supra. The names of the remaining two brothers of Petitioner's father *i.e.* China Venkatachellam and Narasimham, are omitted, because their shares of Service Inams were made over to Karnam(Petitioner's father) on their death agreeably to the orders contained in Exhibit No.23. The name of Narasimham's son Venkata Ramayya (Counter-petitioner) is omitted, because, after his father's death, the shares of Service Inams in his enjoyment were not continued under his enjoyment but were made over to Appellant's father as just stated. Petitioner begs to treat, in the next four clauses (g) to (j), of the evidence adduced for making out that the family was undivided.

(b) Ex: 31,
(c) Ex: 34,

(*g*) Much stress was laid on two bonds dated respectively 5th [b]January 1870 and 19th [c]March 1881, jointly executed, the first by Petitioner's father Counter-Petitioner's father, their three other brothers and the father of all the five, and the second by four of the said persons, the remaining two Venkatachelam and Narasimhulu (Counter-Petitioner's father) being dead. The second of these documents had nothing to do with the Counter-Petitioner, and there is no reason why the Counter-Petitioner did not join, or was not joined, in the transaction if, as alleged, the family *were* undivided. Thus, the first is the only bond, in the execution of which the Counter-Petitioner's branch joined. It would, indeed, be a great jump of logic to infer, from only one such document, that the family was undivided. The proper inference should be just the reverse: the fact that, during the period of about fifty years, *only one* such document was executed shews that it was more an, in fact the only, exception than the rule, the respective brothers having been apparently carrying on separate dealings on all other occasions. Joint execution of a bond is not a good, and much less the sole, criterion for inferring the fact of the executing parties being joint, and in support of the assertion, Petitioner can adduce numberless instances. One notable instance he had already cited and filed the [d]documents connected with it. There the Petitioner's father, Petitioner's paternal grandfather and a third man Yilla China Appayya, jointly executed a bond on 6th January 1880. If the contention of the Counter-Petitioner, upheld by the Head Assistant Collector, be accepted, the third man, a toddy drawer, must be considered a joint member of the Petitioner's father's family! But it is needless to dilate further on the point.

(d) Ex: 32 & 33,

(*h*) Great importance is also given to the fact that the Cowls and Kadapas were respectively executed by, and in favour of the brothers and their father jointly. In the first place, they do not specify the executants as members of a joint family. In the second place, it is to the advantage of such divided persons, owning specific and separate shares of lands, to lease out the lands, whether as a whole, or by fields, all the owners jointly, the result being greater income, absence of feuds which would be endless if they had each leased out to separate tenants, and good repair of the lands leading to greater income. Petitioner can adduce evidence of numberless cases of the sort, in some of which the lessors had no other relationship than that, one of them has, by purchase, &c. become the

owner of the share of a member of the family. Like the joint execution of bonds, this ground of joint execution of Kadapas, also, is untenable for proving that no division took place. Moreover, on a close examination of the Kadapas, the division is clearly established rather than negatived. In all the Kadapas produced by Counter-petitioner and executed after 1878 when the lands of his father were made over to Petitioner's father, *i.e.* those dated (1) 19th [a]March 1881, (2) 13th day of the bright fortnight of Chaitram of the year Tarana corresponding to about [b]April 1884 and (3) 22nd [c] July 1886, the names of both Narasimham & his son Venkataramayya are omitted. The reason is not far to seek. As explained in clause (*d*) supra, among others, the share of Service Inam lands in the enjoyment of Narasimham was, on his death, made over to Petitioner's father (the Karnam), and there is an end of the matter as far as Counter-Petitioner is concerned.

(a) Ex: 38.
(b) Ex: 39.
(c) Ex: 40.

(*i*) Ridiculous importance is attached by the Head-Assistant Collector to the statements made by the witnesses on behalf of the Counter-Petitioner that Petitioner's father and others (his brothers) had been, for some time, taking their meals jointly. The total number of witnesses examined on his behalf is ten, of whom [d]six were perfect strangers to the previous transactions of the parties, the remaining four only having been, in some way or other, connected with the 5 Exhibits Nos. 31, 34 and 38 to 40. If the family were really undivided, Counter-Petitioner would have proved it by the evidence of all the fifteen persons (instead of four only) who were connected with the said five Exhibits, namely of the executants of Exhibits Nos. 31 and 34, of the executing parties in Exhibits Nos. 38 to 40 and of the witnesses, including the writers, of all the 5 Exhibits. Moreover, it is only oral evidence and that, of persons who, besides being of little or no *status*, are not expected to know about it. Three of the ten witnesses are [e]Kshatrias, while three more are [f]Sudras, in all six non-Brahmins, on whose assertions about joint partaking of meals no reliance can be placed, as the parties who are Brahmins cannot be expected to take meals in their presence. The remaining [g]four persons, though Brahmins, are reputed Vaidikis, a class eking out their livelihood by professional beggary, not to speak of the fact that three out of the four were perfect strangers to the previous transactions of the parties. Further, many of the eleven persons having knowledge of the previous transactions of the parties and left unexamined by Counter-Petitioner, are more respectable than those actually examined on his behalf. On the other hand, Petitioner proved separation of meals by the evidence of three respectable witnesses, viz: the 1st Rayavarapu Perraju, a cousin of Petitioner's father, the 2nd Ammu Buvvana Garu, a Brahmin gentleman of respectability and erudition and a friend of the Petitioner's father's family, and the 3rd Yella Swami, the Pettandar of the village and a man of considerable means. Petitioner regrets that he gave up the examination of some more witnesses on his behalf as unnecessary on the advice of his Vakil. It is for His Excellency in Council to decide which evidence is entitled to greater weight, if, indeed, any weight can be attached to the evidence on behalf of the Counter-Petitioner commented on above, and whether, in the face of the public documents, Exhibits Nos. 21 to 27, establishing the division in unmistakeable terms as submitted in clauses (*a*) to (*f*) supra, such oral evidence can be taken to override them and the inference of the family being joint ventured upon.

(d) Nos. 1, 2, 5, 7, 8 & 9
(e) 1st, 2nd & 3rd.
(f. 4th, 9th, & 10th.
(g) 5th, 6th, 7th & 8th.

(*j*) The Collector observes that the division of Village Service Inam lands, being invalid, cannot be accepted as evidence. The Principal Assistant Collector made the arrangement and the shares lapsed to the working Karnam on each share-holder's death. It was, doubtless, allowed by the orders then in force and subsequent orders, if any, to the contrary, cannot affect their validity. Even granting the contrary, it may be invalid

owner of the share of a member of the family. Like the joint execution of bonds, this ground of joint execution of Kadapas, also, is untenable for proving that no division took place. Moreover, on a close examination of the Kadapas, the division is clearly established rather than negatived. In all the Kadapas produced by Counter-petitioner and executed after 1878 when the lands of his father were made over to Petitioner's father, *i.e.* those dated (1) 19th [a]March 1881, (2) 13th day of the bright fortnight of Chaitram of the year Tarana corresponding to about [b]April 1884 and (3) 22nd [c] July 1886, the names of both Narasimham & his son Venkataramayya are omitted. The reason is not far to seek. As explained in clause (*d*) supra, among others, the share of Service Inam lands in the enjoyment of Narasimham was, on his death, made over to Petitioner's father (the Karnam), and there is an end of the matter as far as Counter-Petitioner is concerned.

(a) Ex: 38.
(b) Ex: 39.
(c) Ex: 40.

(*i*) Ridiculous importance is attached by the Head-Assistant Collector to the statements made by the witnesses on behalf of the Counter-Petitioner that Petitioner's father and others (his brothers) had been, for some time, taking their meals jointly. The total number of witnesses examined on his behalf is ten, of whom [d]six were perfect strangers to the previous transactions of the parties, the remaining four only having been, in some way or other, connected with the 5 Exhibits Nos. 31, 34 and 38 to 40. If the family were really undivided, Counter-Petitioner would have proved it by the evidence of all the fifteen persons (instead of four only) who were connected with the said five Exhibits, namely of the executants of Exhibits Nos. 31 and 34, of the executing parties in Exhibits Nos. 38 to 40 and of the witnesses, including the writers, of all the 5 Exhibits. Moreover, it is only oral evidence and that, of persons who, besides being of little or no *status*, are not expected to know about it. Three of the ten witnesses are [e]Kshatrias, while three more are [f]Sudras, in all six non-Brahmins, on whose assertions about joint partaking of meals no reliance can be placed, as the parties who are Brahmins cannot be expected to take meals in their presence. The remaining [g]four persons, though Brahmins, are reputed Vaidikis, a class eking out their livelihood by professional beggary, not to speak of the fact that three out of the four were perfect strangers to the previous transactions of the parties. Further, many of the eleven persons having knowledge of the previous transactions of the parties and left unexamined by Counter-Petitioner, are more respectable than those actually examined on his behalf. On the other hand, Petitioner proved separation of meals by the evidence of three respectable witnesses, viz : the 1st Rayavarapu Perraju, a cousin of Petitioner's father, the 2nd Ammu Buvvana Garu, a Brahmin gentleman of respectability and erudition and a friend of the Petitioner's father's family, and the 3rd Yella Swami, the Pettandar of the village and a man of considerable means. Petitioner regrets that he gave up the examination of some more witnesses on his behalf as unnecessary on the advice of his Vakil. It is for His Excellency in Council to decide which evidence is entitled to greater weight, if, indeed, any weight can be attached to the evidence on behalf of the Counter-Petitioner commented on above, and whether, in the face of the public documents, Exhibits Nos. 21 to 27, establishing the division in unmistakeable terms as submitted in clauses (*a*) to (*f*) supra, such oral evidence can be taken to override them and the inference of the family being joint ventured upon.

(d) Nos. 1, 2, 5, 7, 8 & 9.
(e) 1st, 2nd & 3rd.
(f. 4th, 9th, & 10th.
(g) 5th, 6th, 7th & 8th.

(*j*) The Collector observes that the division of Village Service Inam lands, being invalid, cannot be accepted as evidence. The Principal Assistant Collector made the arrangement and the shares lapsed to the working Karnam on each share-holder's death. It was, doubtless, allowed by the orders then in force and subsequent orders, if any, to the contrary, cannot affect their validity. Even granting the contrary, it may be invalid

as an alienation, but is very good, in fact the best, evidence of division whereas, in the present case, the fact of division is in issue. A document, though invalid for the immediate purpose for which it is executed, is relevent as evidence of collateral facts.

(*k*) To sum up: the public documents produced by Petitioner point to division having taken place previous to Fasli 1269 (Exhibit 29) and received the Principal Assistant Collector's approval in 1866 (Exhibit 23), and continued down to 1878 when it received fresh evidence by the shares of two of the brothers who were deceased being made over to Petitioner's father by the Revenue Inspector under the orders of the Principal Assistant Collector (Exhibits 27 and 28); the same is also corroborated by the Land Register prepared by the Revenue Survey Department (Exhibit 30); the joint execution of bonds and Cowls is untenable as evidence of the brothers being joint; the assertion that they took meals jointly is not to be relied upon, the evidence adduced by Counter-Petitioner being meagre, while the reverse was proved by Petitioner; and lastly the division of Village Service Inams, far from being inadmissible on account of its supposed invalidity, is the very best evidence of division of the family. Petitioner hopes that His Excellency in Council may find, on the above, that the family *was divided*, and that, as daughter of the last holder, Petitioner's claims for the post are better than those of the Counter-Petitioner who is his *divided* brother's son.

V. In this and the two succeeding paras Petitioner begs to treat [illegible]of the grounds of the Board's decision. The foremost of the grounds recorded [illegible] by the Board is that the Revision of Village Establishments having been introd[illegible]uced subsequent to the Head Assistant Collector's decision, the Petitioner's suit [illegible]abated. In reply, Petitioner begs to refer His Excellency in Council to the followin[illegible]g orders:—

(1) B. P. No. 73, dated 17-2-92 (para 4). Revision appointm[illegible]ents not vested with any prerogative as before.

(2) G. O. No. 927, Revenue Department,, dated 23-10-93, [illegible] para. 2. Prospective effect only, and not retrospective [illegible] effect, should be given to the orders about revision.

(NOTE:— The original suit was decided in [illegible]October 1890, vide Exhibit No. 1.)

(3) G. O. No, 1004, Revenue Department, dated 21-11-[illegible]93, para 2 (i).

VI. The next ground of the Board's decision was that[illegible] the constitution of the village having been affected and the number of Karnams rec[illegible]luced at the Revision, all previously existing Mirasi rights have been extinguished.

There has been no change in the number of village [illegible]ffices. The case is similar to that of Sigatapu Ramaswami, the village Munsiff of [illegible] Peda Uppalam, the principal village of the group in question, in disposing of whose [illegible]appeal the Board, in their Proceedings, dated 12th November 1894, No. 6256 Mis. [illegible] observed that the Appellant's Mirasi rights should be respected as there was no [illegible]hange at Revision in the number of Monegars, there being now a Monegar and an [illegible]ssistant Monegar for the group as against two Monegars, before,for the two villages. [illegible]Precisely the same is the case as regards the number of Karnams who are two as bef[illegible]ore,one of them, as in the case of Monegar, being now called Assistant to the other, [illegible]vide B. P. No. 220, dated 28-4-90, laying down that the hereditary nature of villag[illegible] offices is not extinguished by the amalgamation of village offices in the Revision [illegible]of village establishments. Moreover, G. O. No. 1168, Revenue Department, dat[illegible]d 24-11-92, applies only where the new villages are formed by clubbing or sub-div[illegible]ng villages. Here no such thing was done.

VII. The third and last ground of the Board's de[illegible] was that, being a female, Petitioner is ineligible for appointment. Petitio[illegible]begs to state that, under the Regulation, there was no such disqualification or [illegible]diment and further relies on the following orders:—

(1) B. P. No. 949, dated 12-4-74.
(2) G. O. No. 3479 Mis: dated 14-6-86, communicated with
(3) B. P. No. 1517, dated 2-7-86.
(4) B. P. No. 225, dated 12-3-88.
(5) B. P. No. 73, dated 19-2-92, para. 2 (i).

VIII. It was once before urged, and may be repeated, that the Counter-Petitioner, having been in office for three years, cannot be ousted. In reply Petitioner begs to refer His Excellency in Council to the following orders:—

(1) G.O. No. 10 R.D., dated 4-1-92 (para 10) communicated with
(2) B. P. No. 73, dated 17-2-92.
(3) B. P. No. 10036, dated 20-12-82.

} Time during which suits, &c. under Regulation VI. of 1831 are prosecuted is excluded from the period of 3 years prescribed in para 7 of Board's Standing Order No. 172 (Old Edition).

IX. Having treated, at length, the various objections urged, now and before, against him, Petitioner next begs permission to advert, in this and the succeeding paras, to the objections to which Counter-Petitioner's claims are subject.

Appendix A makes it clear that the Karnamship belonged to another family known as Draksharamvaru. The last holder in that family was one Draksharam Venkanna, who died without male issue but with two daughters Kannamma and Venkamma, who, having been married respectively to Rayavarapu Venkatachellam and Venuturubilli Rayappa, had, by the time of their father's death, sons, who as daughter's sons of the deceased D. Venkanna, were his heirs. R. Kamaraju who was the eldest of the grandsons by Kannamma and V. Kamaraju who was the only grandson by Venkamma were his heirs according to both Hindu Law and departmental orders, and they were respectively appointed Karnams of the Peda Uppalam and China Uppalam villages. The Karnamship of the Peda Uppalam village having, thus, devolved on Petitioner's father in his own right and not through his father, his brothers (of whom Counter-Petitioner's father was one) had no right to a share in it as a matter of right. It was this consideration that led them to consent to, and the Principal Assistant Collector to order, the arrangement entered into by them all, out of courtesy and in deference to the wishes of their father, whereby the Service Inam Lands should be enjoyed in certain shares for their lives only and revert, on the death of each, to the working Karnam and the order about reversion was given effect to in 1878 by making over, to the Petitioner's father, the shares of the Counter-Petitioner's father and another. It is really surprising how, after all the above, Counter-Petitioner could advance any claims to the Karnamship and much less, how the authorites could have countenanced such feigned claims. Moreover, even granting that the Karnamship was conferred upon the Petitioner's paternal grand-father (as to which there is not an atom of evidence), Petitioner's father, as his eldest son, was entitled to it solely and to the exclusion of his other sons. Moreover, the Counter-Petitioner, being a Minor, could not be appointed to, and much less could not continue in, the office.

(1) B. P. No. 949, dated 12-4-74.
(2) G. O. No 3479 R. D., dated 14-6-86, communicated with
(3) B. P. No. 1517, dated 2-7-86.
(4) B. P. No. 225, dated 12-3-88.
(5) B. P. No. 73, dated 17-2-92, para 2 (i).

} X. For the foregoing reasons Your Excellency's Petitioner most humbly prays that she may be favoured with the Karnamship of Peda Uppalam, she being registered as Karnam and allowed to have the duties done by a deputy of her own choice subject to the approval of the nominee by the Revenue Authorities as allowed by the marginally noted orders.

For which act of Grace and Mercy, Your Excellency's Humble Petitioner shall, as in duty bound, ever pray.

NARSIPATAM,
November 1896.

Mark of
KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of Peda Uppalam,
Sarvasidhi Taluk, Vizagapatam District.

APPENDIX A.

Previous History of the case from the commencement up to date (NOVEMBER 1896.)

The Karnamship of Peda Uppalam and China Uppalam orginally belonged to a different family from both Petitioner and Counter-Petitioner : the name of that family was Draksharamavaru. The last holder in that family was one Draksharama Venkanna,who died without male issue but with two daughters Kannamma and Venkamma, who, having been married respectively to Rayavarapu Venkatachalam and Venuturubilli Rayappa, had, by the time of their father's death, sons, who, as daughters' sons of the deceased D. Venkanna, were his heirs. R. Kamaraju, who was the eldest of the grandsons by Kannamma, and V. Kamaraju who was the only grandson by Venkamma, were his heirs according to both the Hindu Law and the departmental orders, and they were respectively appointed Karnams of Peda Uppalam and China Uppalam villages. The Karnamship of Peda Uppalam having thus devolved on Petitioner's father in his own right and not through his father, his brothers (of whom Counter-Petitioner's father was one) had no right to it. Petitioner's father Rayavarapu Kamaraju was Karnam for about 46 years from 1840 to 1886, when he died, leaving as his sole heir the Petitioner, his daughter aged about 14 years. Petitioner's mother having died before, Petitioner was in helpless condition, and taking advantage of the above state of things, one Rayavarapu Venkataramayya, a *divided* brother's son of the Petitioner's father, was brought on the scene by the maternal uncle and guardian Vaddiparti Sarraju who usurped the Karnamship with its emoluments. Soon after attaining her majority, Petitioner filed Regulation Suit No. 36 of 1890 in the Court of the Principal Assistant Collector who (a)dismissed it, vide para. 3 of my (b)petition to Board,Settlement, dated 29-1-91, on the ground that, Defendant, having held the office for more than 3 years, could not be ousted there-from. Against this Judgment, Petitioner sent up to the Board of Revenue on the(c) 29th January 1891, an appeal petition which was rejected by the Board in their (d)Proceedings No. 2877,Mis., dated 27th April 1891, on the ground that the post could not be conferred on the Petitioner, a female, when there were male members in the family. This Proceedings of the Board having unfortunately not reached the Petitioner, Petitioner addressed the Board a (e)reminder in September 1891, to which an (f)endorsement was sent referring Petitioner to Board's (g)Proceedings, No. 2,897 Mis., dated 27-4-91, already sent through the Collector. This endorsement is not forth-coming, but is referred to at length in Petitioner's (h application, dated 9-12-92 for a copy of the said Proceedings, which, after a technical (i)objection and reply, was granted in Board's (j)Proceedings, No. 185, Routine, dated 26-1-93. After receiving the said (k copy and gathering the necessary information, Petitioner addressed the Board an (l)appeal on 21-4-93 based on Board's Proceedings, dated 17-2-92, No. 73, with the result that (m)B. P. No. 1167 Routine, dated 9th May 1893, was sent to Petitioner informing him that orders were sent to him in Board's Proceedings, No. 2275, Mis., dated 13-4-93, to the Collector directing him to restore the suit to its former file and dispose of it on its merits as none of the objections made before was tenable. On the 27th June 1893, the Head-Assistant Collector delivered a (n)Judgment in Petitioner's favour. An appeal was presented thereupon by the Defendant to the Collector who remanded it for a finding on the question whether the family was divided or not. In his second inquiry, the Head-Assistant Collector erroneously thought that, though the division was made so long back as 1866, it was not carried out and passed (o)Judgment returning a finding that the family was undivided. The Collector delivered his (p)Judgment on 10-5-94 and observed that, under G. O., dated 6-5-93, No. 389, Revenue, according to which the Hindu Law of inheritence is applicable, Counter-

(a) Ex. 1.
(b) Ex. 2.
(c) Ex. 2.
(d) Ex. 3.
(e) Ex. 4.
(f) Ex. 5.
(g) Ex. 3.
(h) Ex. 6.
(i) Ex. 7.
(j) Ex. 8.
(k) Ex. 9.
(l) Ex. 10.
(m) Ex. 11.
(n) Ex. 12.
(o) Ex. 13.
(p) Ex. 14.

Petitioner, a male, was entitled to priorty over Petitioner, a female, as the family was an undivided one. Petitioner then (q)appealed to the Revenue Board, on 23-7-94, which after a (r)reference to Petitioner and his (s)reply thereto, was finally dismissed in Board's (t)Proceedings, dated 27-9-94, No. 5046 Mis. for reasons therein given. A (u)review petition to the Board met the same fate with the Board, vide their (v)Proceedings, dated 1st May 1895, No. 2181 Mis. Meanwhile Act III of 1895 was passed on 8-4-95, and brought into force from 1-10-95. Petitioner had a great mind to address His Excellency in Council, but there was Section 23 of the new Act staring in the face. Petitioner was thus in a fix and was agreeably surprised on hearing that a G. O. was passed in July 1896 as submitted in para II of the Petition and giving her an opportunity of doing so.

(q) Ex. 15.
(r) Ex. 16.
(s) Ex. 17.
(t) Ex. 18.
(u) Ex. 19.
(v) Ex. 20.

NARSIPATAM,
November 1896.

KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of the Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

List of Papers sent by Krovvidi Subhadramma, claimant to the Karnamship of Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District, with her Revision Petition, dated November 1896, to His Excellency the Governor in Council, Fort Saint George, Madras.

1. Judgment of the Principal Assistant Collector, Vizagapatam District, dated 28-10-90, in Regulation Suit, No. 36 of 1890.
2. Petition, dated 29-1-91, by Petitioner to Revenue Board, Settlement Department.
3. Board's Proceedings, dated 27-4-91, No. 2897 Mis. This is not forthcoming.
4. Reminder petition, dated—Sept. 91, to Board about her petition, dated 29-1-91 (Exhibit 2).
5. Endorsement by Board of Revenue, dated—on petition of September 91 (Exhibit 4).
6. Application, dated 9-12-92, by Petitioner to Board of Revenue (Board's Petition Register, No. 3843 of 1892).
7. Board's Proceedings, dated 19-12-92, No. 3,036 Rout: on her petition, dated 9-12-92. (Exhibit No. 6).
8. Petition, dated 1-1-93 replying the above (No. 7).
9. Board's Proceedings, dated 26-1-93, No. 185 Rout.
10. Appeal petition, dated 21-4-93, to Board L. R. by Petitioner.
11. Board's Proceedings, dated 9-5-93, No. 1167, Rout.
12. Judgment, dated 27-6-93 of the Head-Assistant Collector in Regulation Suit No. 36 of 90.
13. Second Judgment, dated 27-10-93 of do. do.
14. Collector's Judgment, dated 10-5-94 in Regulation Appeal No. 13 of 93.
15. Petition, dated 23-7-94 by Petitioner to Board (Board's Petition Register No. 2558 of 1894).
16. Board's Reference, dated 7-8-94 on Board's Petition Register, No. 2558 of 1894.
17. Petition, dated 22-8-94, of Petitioner to Board resubmitting records as per Exhibit 16.
18. Board's Proceedings, dated 27-9-94, No. 5406 Mis.
19. Revision Petition, dated to Board by Petitioner.
20. Board's Proceedings, dated 1-5-95, No. 2181 Mis.

EXHIBITS IN THE ABOVE LITIGATION.

21. List showing details of the shares, divided and respectively enjoyed by Rayavarapu Kamarazu and his brothers, in the Service Inam lands of the Karnamship of Peda Uppalam village.
22. Do. Do. China Uppalam village.
23. Proceedings of the Principal Assistant Collector, dated 7—4—66, No. 45.
24. Petition, dated 23—9—77 to Principal Assistant Collector by Petitioner's father Kamaraju.
25. Petition, dated 17—11—77 to do. do.
26. Principal Assistant Collector's endorsement, dated 29—1—78, No. 35 to Tahsildar.

27. Principal Assistant Collector's Takid to Tahsildar, dated 12-3-78, No. 364.
28. Principal Assistant Collector's Order, No. 50, date not given, but on or after 12-3-78.
29. Extract from A Register of the Peda Uppalam village for Fasli 1269.
30. Extract from the Land Register of the Peda Uppalam village.

BONDS AND KADAPAS.

31. Bond, dated 5-1-70.
32. Bond, dated 6-1-80.
33. Endorsement Bond, dated 28-9-81.
34. Bond, dated 19, 3, 81.
35. Cadapa, dated 8-4-70, No. 2.
36. Cadapa, dated 8-6-72, No. 4.
37. Cadapa, dated ఆంగిరస సంవత్సర ఆశ్వయుజ బ ౧౧, corresponding about October 72, No. 1.
38. Cadapa, dated 19-3-81, No. 3.
39. Cadapa, dated శార్వరి సంవత్సర చైత్ర శు ౧౧, corresponding about April 84, No. 5.
40. Cadapa, dated 22-7-86, No. 6.

DEPOSITIONS.

41.	Deposition of D. Appalaraju,	1st Witness for Defendant.		
42.	do.	A. Somaraju,	2nd	do.
43.	do.	K. Appalaraju,	3rd	do.
44.	do.	P. Nukayya,	4th	do.
45.	do.	G. Yagnanarayana	5th	do.
46.	do.	Y. Somayajulu,	6th	do.
47.	do.	P. Chalamayya,	7th	do.
48.	do.	A. Lakshmina-rayana Somayajulu	8th	do.
49.	do.	V. Appadu	9th	do.
50.	do.	P. Ademma.	10th	do.

Six of these are Non-brahmins. The remaining four are Brahmins, it is true; but three of them were perfect strangers to the previous transactions of the parties.

NARSIPATAM,
November 1896.

Mark of
KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of the Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

S. S. M. PRESS, VIZAG—20-11-96.—18.

1896.

From

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

To

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Dated 26
Despatched 27 } November 1896.
Received

ENCLOSURES:

1 Appendix,

1 List,

and 50 Enclosures as per List.

SUBJECT.

Submits Revision Petition regarding the Karnamship of No. 85 Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

To

His Excellency The Governor-in-Council,

FORT ST. GEORGE,

MADRAS.

The humble supplemental Revision Petition of KROVVIDI SUBHADRAMMA, claimant to the Curnamship of No. 85, Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

MOST RESPECTFULLY SHEWETH :—

I. That Your Excellency's Petitioner has submitted to His Excellency in Council three * Petitions as per margin setting forth her claims to the Curnamship of No. 85, Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District, to which she is entitled as against the Counter-Petitioner Rayavarapu Venkataramanayya, minor, represented by V. Sarraju.

* (1) On 25th November 1896 a printed Petition with 52 Enclosures, (2) on 6th January 1897 a supplemental Petition with three new Enclosures, and (3) on 29th January 1897 a petition with a Memorandum containing succinctly the salient points of the case.

II. That Petitioner learns, with much regret, that her petitions, along with those of some others, are kept pending the passing, into Act, of the Bill to amend the Madras Hereditary Village Offices Act III of 1895 in view to their being ultimately rejected under Section 2 of the proposed Bill.

III. That Petitioner's case is a very peculiar one, entitled to special and equitable consideration at the hands of His Excellency in Council: that it was unfavourably disposed of on an *erroneous view of facts, to wit,* that the family was undivided, a finding the fallacy of which is exposed at length in para IV of her printed Petition, that had the case been merely disposed of according to the *law* then in force and had Petitioner's ground of the Revision Petitions been only a subsequent change in the *law* on the subject, her Revision Petitions may not unreasonably be rejected along with similar petitions from other individuals, that, on the other hand, Petitioner's main, if not the sole, ground is that the view taken on a question of *fact, i. e.* about the family being undivided, is entirely erroneous and unsupported by documentary evidence.

IV. That Petitioner submits that, even on other grounds also, she has preferential claims to the post over the Counter-Petitioner.

V. That Petitioner's case is thus entitled to pity and equitable consideration at the hands of His Excellency in Council.

VI. That Petitioner, therefore, most humbly and respectfully prays that her Petitions may, instead of being ordered to still lie over pending till, and rejected after, the passing of the Bill to amend the Madras Hereditary Village Offices Act III of 1895, be kindly taken up with as little delay as possible and, as allowed by the law now in force, kindly disposed of on *merits* on a calm consideration, or in the event of His Excellency in Council not being disposed to attend any longer to such matters themselves, that they may be kindly transferred to the Honorable the Board of Revenue (Land Revenue Department) for disposal.

For which act of Mercy Petitioner shall, as in duty bound, ever pray.

(3rd) వి వి కృష్ణారావు (వి) మృత్యుంజయరావు

Mark of KROVVIDI SUBHADRAMMA,
Claimant to the Curnamship of
No. 85, Peda Uppalam, Sarvasidhi Taluk,
Vizagapatam District.

NARSIPATAM,
15th March 1897.

P. S. M. PRESS, VIZAG:—11-3-97:—19.

Copy.

1897.

1-2
9

From

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

To

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Dated 15
Despatched 16 } March 1897.
Received

Enclosures.

8061/R
24-3-97

Subject.

—

Praying that under the peculiar and equitable circumstances of the case her Revision-Petitions may be disposed on merits or transferred to the Board of Revenue, Land Revenue Department, instead of being kept pending till the passing of and ultimately rejected under, the Bill to amend the Madras Hereditary Village Offices Act III of 1895.

Revenue (1897) Department.

CURRENT No. 2525

From

Krovvidi Subhadramma,
claimant to the Karnamship
of No 85, Peda Uppalam,
Sarvasidhi Taluk,
Vizagapatam Dt.

Order

No.

Dated 15-3-97

Received 20-3-97

Registered 20-3-97.

Enclosures

Spare copies

SUBJECT.

Regarding her claims to the office of Karnam.

Reg'r clerk
20/3/97

BACK PAPERS.

G.O.	No	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

His Excellency The Governor-in-Council,

FORT St. GEORGE,

MADRAS.

PETITION
0268
REVENUE DEPT.
GOVERNMENT OF MADRAS
20 MAR 97
REVENUE DEPARTMENT

The humble supplemental Revision Petition of KROVVIDI SUBHADRAMMA, claimant to the Curnamship of No. 85, Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

MOST RESPECTFULLY SHEWETH :—

I. That Your Excellency's Petitioner has submitted to His Excellency in Council three * Petitions as per margin setting forth her claims to the Curnamship of No. 85, Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District, to which she is entitled as against the Counter-Petitioner Rayavarapu Venkataramanayya, minor, represented by V. Sarraju.

* (1) On 25th November 1896 a printed Petition with 52 Enclosures, (2) on 6th January 1897 a supplemental Petition with three new Enclosures, and (3) on 29th January 1897 a petition with a Memorandum containing succinctly the salient points of the case.

II. That Petitioner learns, with much regret, that her petitions, along with those of some others, are kept pending the passing, into Act, of the Bill to amend the Madras Hereditary Village Offices Act III of 1895 in view to their being ultimately rejected under Section 2 of the proposed Bill.

III. That Petitioner's case is a very peculiar one, entitled to special and equitable consideration at the hands of His Excellency in Council: that it was unfavourably disposed of on an *erroneous view of facts, to wit*, that the family was undivided, a finding the fallacy of which is exposed at length in para IV of her printed Petition, that had the case been merely disposed of according to the *law* then in force and had Petitioner's ground of the Revision Petitions been only a subsequent change in the *law* on the subject, her Revision Petitions may not unreasonably be rejected along with similar petitions from other individuals, that, on the other hand, Petitioner's main, if not the sole, ground is that the view taken on a question of *fact, i. e.* about the family being undivided, is entirely erroneous and unsupported by documentary evidence.

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VI. That Petitioner, therefore, most humbly and respectfully prays that her Petitions may, instead of being ordered to still lie over pending till, and rejected after, the passing of the Bill to amend the Madras Hereditary Village Offices Act III of 1895, be kindly taken up with as little delay as possible and, as allowed by the law now in force, kindly disposed of on *merits* on a calm consideration, or in the event of His Excellency in Council not being disposed to attend any longer to such matters themselves, that they may be kindly transferred to the Honorable the Board of Revenue (Land Revenue Department) for disposal.

For which act of Mercy Petitioner shall, as in duty bound, ever pray.

(3) కొవ్విడి సుభద్రమ్మ గారి గుర్తు

mark of KROVVIDI SUBHADRAMMA,
Claimant to the Curnamship of
No. 85, Peda Uppalam, Sarvasidhi Taluk,
Vizagapatam District.

NARSIPATAM,
15 March 1897.

S. S. M. PRESS, VIZAG:—11-3-97:—19.

1897.

From

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

To

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Dated 15
Despatched 16
Received

March 1897.

Enclosures. —

Subject.

Praying that under the peculiar and equitable circumstances of the case her Revision-Petitions may be disposed on merits or transferred to the Board of Revenue, Land Revenue Department, instead of being kept pending till the passing of and ultimately rejected under, the Bill to amend the Madras Hereditary Village Offices Act III of 1895.

Revenue (189/) Department.

CURRENT No. 196

To be over alongwith
Civil 8874 6/96
11/1/97

From Krovvidi Subhadramma.
No 85 Pedda Uppalam,
Sirvasidhi Taluk,
Vizagapatam Dt.

Order

No.

Dated 31-12-96

Received 8-1-97

Registered 9-1-97.

Enclosures 5

Spare copies

SUBJECT.

Sutanj supplemental revision petition regarding the Karnamship of the village

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

GOVT. MADRAS
REV. DEPT.

His Excellency the Governor in Council,

Fort Saint George,

Madras.

CHIEF SECRETARY'S
-7 JAN 1897
GOVERNMENT OF MADRAS

C.no 8848/96

The Humble Supplemental Revision Petition of Kravvidi Subhadramma, claimant to the office of Karanam of Rs. 85 Peda Appalam village, Sarvasiddhi Taluq, Visagapatam District. Most humbly showeth that:

Petitioner submitted, on the 26th November 1896, with 50 enclosures as per list, a Revision Petition to His Excellency in Council regarding the Karanam-ship for Rs. 85 Peda Appalam village, Sarvasiddhi Taluq, Visagapatam District.

2. Petitioner now begs to submit herewith the following five additional documents namely.—

No. 51.— Deposition of Amma Bhavani Saukarudu (alias Burrama), 18th witness for Plaintiff. } Depose clearly to facts of division and separate meals.

No. 52.— Deposition of Illa Swami, 21st witness for Plaintiff. } Depose clearly to facts of division and separate meals.

No. 53.— Deposition of Rayavarapu Perraju, 31st witness for Plaintiff. } Depose clearly to facts of division and separate meals.

No. 54.— Extract from Register of Gadasts sent from the Sarvasiddi } Directing the Revenue Inspector to make over.

father) the lands enjoyed by the Kopayikari Mirasidar (Counter Petitioner's father and another) from deceased.

No. 55— Extract from the Register of Gadaats from the General Register of the Sarvasiddi Taluq for the Year 1878. — Forwarding receipt from the original karanam (Petitioner's father) for the receipt of lands which formed the shares of the Kopayikaridars of Peda Uppalam village, from deceased.

Strictly speaking, Nos. 54 and 55 should be marked 28(a) and 28(b) respectively as they were in pursuance of Exhibit No. 28 Order from the Principal Assistant Collector to the Tahsildar regarding the making over to the Karanam (petitioner's father) of the shares of the Service Inams enjoyed by the Kopayikaridars of whom Counter-petitioner's father was one) since deceased.

3. It may not be out of place to refer to the exact position in the Revision Petition to which they respectively relate. (a) Exhibits Nos. 54 and 55 strictly Nos. 28(a) and 28(b) relate to para IV (d), lines 6 to 9 as also to para IV (k) lines 4 to 7.

(b) Exhibit Nos. 51 to 53 relate to para (i) lines 25 to 30.

4. Petitioner could not get these copies in time for submission with the Revision Petition although she applied for them before. She therefore begs to submit them with this supplemental Petition. In the absence

of

the Gadaats which, though applied for,
rranked as they were not forthcoming, these
hies, Exhibits Nos 54 and 55, representing
rom the Registers maintained in the Taluq
an be accepted as evidence of the facts
portions of the Service inams in the
nd of the Lopayikaridars on the distinct
ding that they were to be made over on
tte to the working Karanam, were, as a
fact, so made over, and that the family
ivided which latter is thereby conclusively
ed.

r Jelly hopes that His Excellency in Council
convinced of the facts of actual division
their separation in meals and then the petitioners
in the matter will naturally follow.—

onclusion, Petitioner most humbly pray that
ccellency in Council may, as already prayed
pleased to order her registration as Karanam
er nomination of a deputy subject to the
oval of the Revenue authorities for the discharge
e duties of the Karanamship.

For which act of Grace and Mercy Your Excellency's
ner shall as in duty bound, ever pray.

1897.

From

Krovvidi Subhadramma,
Claimant to the Kurnamship of
No-85, Peda Uppalam,
Sarvasiddhi Taluk,
Vizagapatam District,

To

His Excellency the Governor
in Council,
Fort Saint George,
Madras.

Dated 31 December 1896.
Despd 4 } January 1897.
Recd

Enclos. 5 Public copies.

Submits Supplemental
Revision Petition regarding the
Kurnamship of No-85, Peda
Uppalam Village, Sarvasiddhi
Taluk, Vizagapatam District.

Revenue (189) Department.

CURRENT No. 8846

To lie over
To Dr
7 Dec/96

Order

From
Kovvidi Subhadramma
Claimant to the Karnamship
of Pedda Appalam
Sarvasidhi Taluk
No. Vizagapatam Dt

Dated 26th November
Received 3rd December
Registered 4th December
1896

Enclosures

Spare copies

SUBJECT.

Praying that She may be favoured with the Karnamship of Pedda Appalam.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

GOVERNMENT OF MADRAS
13 DEC 96
REVENUE DEPARTMENT

CHIEF SECRETARY
1 DEC 1896
GOVERNMENT OF MADRAS

To

His Excellency the Governor in Council,

FORT SAINT GEORGE,

MADRAS.

PETITION
0976
REVENUE DEPT

The humble Revision Petition of Krovvidi Subhadramma, claimant to the Office of Karnam of No. 85, Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

MOST HUMBLY SHEWETH,

1. Petitioner begs to approach His Excellency in Council with this humble Revision Petition and prays that His Excellency in Council may be pleased, under the peculiar and equitable circumstances of the case, to intercede on Petitioner's behalf, and under Section 6 of the Madras Regulation VI of 1831, to reverse and modify the orders of the Honorable Board of Revenue, Land Revenue Department, conveyed in their *Proceedings, dated 1st. May 1895, No. 2,181 Mis: wherein they declined to reconsider their former †Proceedings of the 27th September 1894, No. 5,406, Mis: and thus shut the Petitioner from the Karnamship of Peda Uppalam Village, which her deceased father, having in his own right, as the eldest of the daughter's sons, inherited it from his maternal grandfather, had held for nearly 50 years till his death in 1887 solely and to the exclusion of all others, and to which, as his daughter and sole heir, Petitioner is entitled to succeed, in preference to Counter-Petitioner, Rayavarapu Venkataramanayya, whose father had no rights to it as against Petitioner's father and who, *a fortiori*, had none whatever against Petitioner.

*Ex. No. 20.
†Ex. No. 18

The petition being necessarily lengthy, Petitioner begs leave te refer, succinctly, at the outset, to the arrangement of the Petition.

It is as under:—

I. Preliminary.

II. Possible preliminary objection about the admissibility of the Revision Petition.

III. Previous history of the case.

IV. Family divided and not undivided.

V. Revision of village establishments and alleged consequent abatement of appeal.

VI. Alleged extinction of Mirasi rights owing to change in the constitution of the village and to reduction in the number of Karnamas.

VII. Alleged ineligibility, being female, of Petitioner to be registered as Karnam.

VIII. Counter-petitioner having been in office for more than three years not a bar for his being ousted.

IX. Objections to which Counter-petitioner's claims are subject.

X. Conclusion.

II. Before entering into the merits of the case, Petitioner begs leave to treat of the preliminary technical objection that may possibly be raised against her petition. Sec. 6 of Reg. VI. of 1831 gives power to His Excellency in Council to revise the orders of the Board of Revenue, and as a matter of natural consequence, affords a right to aggrieved parties to submit such Revision petitions, and this right, which is highly valued all over the country, and which, combined with heridatary right, gives much importance to the otherwise insignificant village offices, is one *vested by law* and, as such, cannot be taken away by the mere repeal of the Regulation by the Madras Act III. of 1895, seeing that, in the latter Act, there are no words expressly taking away the said vested right. Petitioner is supported in this equitable and time-honored construction of the statutes by a G. O. of July 1896, published in the Fort St. George Gazette of 28th July 1896, Part I, Page 904, as item No. 11, and published at length in the Madras Mail of the 30th July 1896, page 3, Col 5. It is true that there is a Bill on the *tapais* whereby it is sought to apply the provisions of Sec. 23 of Act III of 1895 in disposing of appeals in cases where, though the original suits had been instituted under the Regulation, the Appeal and Revision petition come up for disposal *after* the coming, into force, of Act III of 1895. But the very fact that the same has not been, and, as rightly decided by Government, could not legally be, effected by a mere departmental order, of itself, shows that, unless and until the proposed amendment Bill is passed into law, effect cannot be legally given to it. Petitioner also learns, with regret, that the Bill proposes to validate all orders passed since the date of coming into force of the Act III of 1895 and on the assumption of its applicability to such appeals. This practically takes away vested rights—a power which, no doubt, can be exercised by His Excellency in Council, but only in those exceptional cases where public interests demand such unusual step, and this requisite is not forthcoming in the contemplated piece of legislation. One can count on one's fingers the cases similar to the present, where the original suit having been filed under the Regulation, the appeal and revision petition come up for disposal now, and the parties, having been, all this time, encouraged to hope for redress according to the equitable construction of the statutes above referred to, will receive a sudden shock by the deprivation of their rights by such unusual procedure. Petitioner, with other and similar persons, is fully sanguine, that His Excellency in Council will recognize the inequitability of giving *retrospective* effect to the contemplated enactment. At all events, Petitioner earnestly begs and hopes that the provisions of Regulation VI, 1831 and of the orders issued thereunder, will be given effect to in her case as her present Revision Pitition will be received, if not also decided by His Excellency in Council, *before* the passing of the proposed Amendment Bill into Act.

III. Petitioner next begs permission to state briefly the previous history of the case. For a long time there were two separate villages in the Sarvasidhi Taluk, named Peda Uppalam and China Uppalam. They remained unaffected by the Revenue Survey and Settlement operations. During the Revision, also, of village establishments, in 1893, they were unaffected, the only thing done being that they were named the Peda Uppalam group. Beyond this, there were no changes whatever up to date: no alteration in the village limits, no splitting and no change in the number of village appointments. The accounts of the two Villages are, to this day, maintained

separately. This will be found discussed more at length in its appropriate place, vide Para. VI infra. The remaining facts connected with the past history of the case are undisputed and will be found fully detailed in Appendix *A.* to this petition, from which His Excellency in Council will be pleased to observe that, ever since attaining majority in 1890, Petitioner has been continually petitioning and suing about the Karnamship, so that no *laches* whatever can be imputed to her.

IV. It will be observed that the Head Assistant Collector's (a)decision was reversed in the Collector's (b)Proceedings dated 10th May 1894 on the ground that the family was undivided. Petitioner begs to state that it is a mistake and that the family is a divided one as explained below:— (a) Ex. 13. (b) Ex. 14.

(*a*) Exhibits 21 & 22.—This consists of public copies of two (c)lists, one for each of the villages, filed in 1866, before the Principal Assistant Collector, by Petitioner's father, by Counter-petitioner's father and their three other brothers, at the foot of each of which there are remarks to the effect that they had divided among themselves all the property they had, including the Service Inam lands and that they had been enjoying their respective shares. These lists were signed by all the brothers including the Counter-petitioner's father. (c) Exs. 21 & 22.

(*b*) Exhibit 23.—This is the public copy of the (d)Proceedings, No. 45, dated 7th April 1866, of the Principal Assistant Collector, passed on the above (Exhibit 22) and recognizing the division with a proviso that the shares were to be enjoyed for their respective lives and then to revert to the Kurnam. (d) Ex. 23.

(*c*) Exhibits 24, 25 & 26. These are the public copies of the (e)petitions presented by Petitioner's father, on 23rd September 1877, and 17th November 1877, to the Principal Assistant Collector, praying that orders may be issued to the Tahsildar of Sarvasidhi to make over to him the respective shares enjoyed by Counter-petitioner's father and another brother Venkatachellam, both being dead, and thus give effect to the orders passed in Exhibit No. 23, vide clause (*b*) supra. These were (f referred to the Tahsildar for report. (e) Exs. 24 & 25. (f) Ex. 26

(*d*) Exhibit 27. This is the puble copy of the (g) Takid, issued on 12th March 1878, to the Tahsildar by the Principal Asst. Collector directing him to make over to the Petitioner's father the Service Inam lands in the enjoyment of his two deceased brothers (including counter-petitioner's father) and alluded to in Exs. 24, and 25, vide clause (c) supra. An endorsement was also sent to the Petitioner's father to the same effect. In compliance with this order, the Tahsildar, through the Revenue Inspector P. Ramanna Garu, who is still alive, had the lands made over to Petitioner's father and the same was reported to the Principal Assistant Collector. To sum up, these seven Exhibits, Nos. 21 to 27, conclusively prove that the division was made in, if not before, 1866 when it was approved by the Principal Asst. Collector, that it continued till 1877, when, on the death of Counter petitioner's father and another of the brothers, some correspondence took place, and effect was given to the Principal Assistant Collector's order of 7th April 1866 (Exhibit 23) by making over to the Petitioner's father (the Karnam) the Service Inam lands in the enjoyment of his deceased brothers. Thus a series of public documents have established, in unmistakeable terms, the facts of the division of the family having been done so long back as 1866 and of its being continued ever since. (g) Ex. 27.

(*e*) Exhibit 29. This is an extract from (h)Register A of the Village for F. 1269; it is clearly stated that the Petitioner's father was enjoying the Mirasi alone and to the exclusion of his other brothers as he inherited them as (h) Ex. 29.

the eldest among the eldest daughter's sons of Petitioner's father. This was for Fasli 1259 corresponding to 1859-60. Thus the division was made long before the date of Exhibit A. (1866).

(a) Ex: 30.

(*f*) Exhibit 30. This is extract from the [a]Land Register of the Village prepared by the Revenue Survey Department which was employed in the District from 1883 to 1888. Col. 8 is headed 'Names of Pattahdars or Inamdars', and in it are entered the names of persons in the enjoyment of the lands. It includes the names of the three then surviving brothers of Petitioner's father, *i.e.* P. Kamaraju, Ramamurti and Bhaskararayadu, for they were in the enjoyment of shares of Service Inams as per Exhibits 21 to 23 referred to in clauses (*a*). & (*b*). supra. The names of the remaining two brothers of Petitioner's father *i.e.* China Venkatachellam and Narasimham, are omitted, because their shares of Service Inams were made over to Karnam(Petitioner's father) on their death agreeably to the orders contained in Exhibit No.23. The name of Narasimham's son Venkata Ramayya (Counter-petitioner) is omitted, because, after his father's death, the shares of Service Inams in his enjoyment were not continued under his enjoyment but were made over to Appellant's father as just stated. Petitioner begs to treat, in the next four clauses (g) to (j), of the evidence adduced for making out that the family was undivided.

(b) Ex: 31, (c) Ex: 34,

(*g*) Much stress was laid on two bonds dated respectively 5th [b]January 1870 and 19th [c]March 1881, jointly executed, the first by Petitioner's father Counter-Petitioner's father, their three other brothers and the father of all the five, and the second by four of the said persons, the remaining two Venkatachelam and Narasimhulu (Counter-Petitioner's father) being dead. The second of these documents had nothing to do with the Counter-Petitioner, and there is no reason why the Counter-Petitioner did not join, or was not joined, in the transaction if, as alleged, the family *were* undivided. Thus, the first is the only bond, in the execution of which the Counter-Petitioner's branch joined. It would, indeed, be a great jump of logic to infer, from only one such document, that the family was undivided. The proper inference should be just the reverse: the fact that, during the period of about fifty years, *only one* such document was executed shews that it was more an, in fact the only, exception than the rule, the respective brothers having been apparently carrying on separate dealings on all other occasions. Joint execution of a bond is not a good, and much less the sole, criterion for inferring the fact of the executing parties being joint, and in support of the assertion, Petitioner can adduce numberless instances. One notable instance he had already cited and filed the [d]documents connected with it. There the Petitioner's father, Petitioner's paternal grandfather and a third man Yilla China Appayya, jointly executed a bond on 6th January 1880. If the contention of the Counter-Petitioner, upheld by the Head Assistant Collector, be accepted, the third man, a toddy drawer, must be considered a joint member of the Petitioner's father's family! But it is needless to dilate further on the point.

(d) Ex: 32 & 33,

(*h*) Great importance is also given to the fact that the Cowls and Kadapas were respectively executed by, and in favour of the brothers and their father jointly. In the first place, they do not specify the executants as members of a joint family. In the second place, it is to the advantage of such divided persons, owning specific and separate shares of lands, to lease out the lands, whether as a whole, or by fields, all the owners jointly, the result being greater income, absence of feuds which would be endless if they had each leased out to separate tenants, and good repair of the lands leading to greater income. Petitioner can adduce evidence of numberless cases of the sort, in some of which the lessors had no other relationship than that, one of them has, by purchase, &c. become the

owner of the share of a member of the family. Like the joint execution of bonds, this ground of joint execution of Kadapas, also, is untenable for proving that no division took place. Moreover, on a close examination of the Kadapas, the division is clearly established rather than negatived. In all the Kadapas produced by Counter-petitioner and executed after 1878 when the lands of his father were made over to Petitioner's father, *i.e.* those dated (1) 19th [a]March 1881, (2) 13th day of the bright fortnight of Chaitram of the year Tarana corresponding to about [b]April 1884 and (3) 22nd [c] July 1886, the names of both Narasimham & his son Venkataramayya are omitted. The reason is not far to seek. As explained in clause (*d*) supra, among others, the share of Service Inam lands in the enjoyment of Narasimham was, on his death, made over to Petitioner's father (the Karnam), and there is an end of the matter as far as Counter-Petitioner is concerned.

(a) Ex: 38. (b) Ex: 39. (c) Ex: 40.

(*i*) Ridiculous importance is attached by the Head-Assistant Collector to the statements made by the witnesses on behalf of the Counter-Petitioner that Petitioner's father and others (his brothers) had been, for some time, taking their meals jointly. The total number of witnesses examined on his behalf is ten, of whom [d]six were perfect strangers to the previous transactions of the parties, the remaining four only having been, in some way or other, connected with the 5 Exhibits Nos. 31, 34 and 38 to 40. If the family were really undivided, Counter-Petitioner would have proved it by the evidence of all the fifteen persons (instead of four only) who were connected with the said five Exhibits,namely of the executants of Exhibits Nos. 31 and 34,of the executing parties in Exhibits Nos. 38 to 40 and of the witnesses, including the writers, of all the 5 Exhibits. Moreover, it is only oral evidence and that, of persons who, besides being of little or no *status*, are not expected to know about it. Three of the ten witnesses are [e]Kshatrias,while three more are [f]Sudras, in all six non-Brahmins, on whose assertions about joint partaking of meals no reliance can be placed, as the parties who are Brahmins cannot be expected to take meals in their presence. The remaining [g]four persons, though Brahmins, are reputed Vaidikis, a class eking out their livelihood by professional beggary, not to speak of the fact that three out of the four were perfect strangers to the previous transactions of the parties. Further, many of the eleven persons having knowledge of the previous transactions of the parties and left unexamined by Counter-Petitioner, are more respectable than those actually examined on his behalf. On the other hand, Petitioner proved separation of meals by the evidence of three respectable witnesses, viz : the 1st Rayavarapu Perraju, a cousin of Petitioner's father, the 2nd Ammu Buvvana Garu, a Brahmin gentleman of respectability and erudition and a friend of the Petitioner's father's family, and the 3rd Yella Swami, the Pettandar of the village and a man of considerable means. Petitioner regrets that he gave up the examination of some more witnesses on his behalf as unnecessary on the advice of his Vakil. It is for His Excellency in Council to decide which evidence is entitled to greater weight, if, indeed, any weight can be attached to the evidence on behalf of the Counter-Petitioner commented on above, and whether, in the face of the public documents, Exhibits Nos. 21 to 27, establishing the division in unmistakeable terms as submitted in clauses (*a*) to (*f*) supra, such oral evidence can be taken to override them and the inference of the family being joint ventured upon.

(d) Nos. 1, 2, 5, 7, 8 & 9

(e) 1st, 2nd & 3rd. (f) 4th, 9th, & 10th.

(g) 5th, 6th, 7th & 8th.

(*j*) The Collector observes that the division of Village Service Inam lands, being invalid, cannot be accepted as evidence. The Principal Assistant Collector made the arrangement and the shares lapsed to the working Karnam on each share-holder's death. It was, doubtless, allowed by the orders then in force and subsequent orders, if any, to the contrary, cannot affect their validity. Even granting the contrary, it may be invalid

as an alienation, but is very good, in fact the best, evidence of division whereas, in the present case, the fact of division is in issue. A document, though invalid for the immediate purpose for which it is executed, is relevent as evidence of collateral facts.

(*k*) To sum up: the public documents produced by Petitioner point to division having taken place previous to Fasli 1269 (Exhibit 29) and received the Principal Assistant Collector's approval in 1866 (Exhibit 23), and continued down to 1878 when it received fresh evidence by the shares of two of the brothers who were deceased being made over to Petitioner's father by the Revenue Inspector under the orders of the Principal Assistant Collector (Exhibits 27 and 28); the same is also corroborated by the Land Register prepared by the Revenue Survey Department (Exhibit 30); the joint execution of bonds and Cowls is untenable as evidence of the brothers being joint; the assertion that they took meals jointly is not to be relied upon, the evidence adduced by Counter-Petitioner being meagre, while the reverse was proved by Petitioner; and lastly the division of Village Service Inams, far from being inadmissible on account of its supposed invalidity, is the very best evidence of division of the family. Petitioner hopes that His Excellency in Council may find, on the above, that the family *was divided*, and that, as daughter of the last holder, Petitioner's claims for the post are better than those of the Counter-Petitioner who is his *divided* brother's son.

V. In this and the two succeeding paras Petitioner begs to treat of the grounds of the Board's decision. The foremost of the grounds recorded by the Board is that the Revision of Village Establishments having been introduced subsequent to the Head Assistant Collector's decision, the Petitioner's suit abated. In reply, Petitioner begs to refer His Excellency in Council to the following orders:—

(1) B. P. No. 73, dated 17-2-92 (para 4). Revision appointments not vested with any prerogative as before.

(2) G. O. No. 927, Revenue Department,, dated 23-10-93, para. 2. Prospective effect only, and not retrospective effect, should be given to the orders about revision.

(NOTE:— The original suit was decided in October 1890, vide Exhibit No. 1.)

(3) G. O. No, 1004, Revenue Department, dated 21-11-93, para 2 (i).

VI. The next ground of the Board's decision was that the constitution of the village having been affected and the number of Karnams reduced at the Revision, all previously existing Mirasi rights have been extinguished.

There has been no change in the number of village offices. The case is similar to that of Sigatapu Ramaswami, the village Munsiff of Peda Uppalam, the principal village of the group in question, in disposing of whose appeal the Board, in their Proceedings, dated 12th November 1894, No. 6256 Mis., observed that the Appellant's Mirasi rights should be respected as there was no change at Revision in the number of Monegars, there being now a Monegar and an Assistant Monegar for the group as against two Monegars, before,for the two villages. Precisely the same is the case as regards the number of Karnams who are two as before,one of them, as in the case of Monegar, being now called Assistant to the other, vide B. P. No. 220, dated 28-4-90, laying down that the hereditary nature of village offices is not extinguished by the amalgamation of village offices in the Revision of village establishments. Moreover, G. O. No. 1168, Revenue Department, dated 24-11-92, applies only where the new villages are formed by clubbing or sub-dividing villages. Here no such thing was done.

VII. The third and last ground of the Board's decision was that, being a female, Petitioner is ineligible for appointment. Petitioner begs to state that, under the Regulation, there was no such disqualification or impediment and further relies on the following orders:—

(1) B. P. No. 949, dated 12-4-74.
(2) G. O. No. 3479 Mis: dated 14-6-86, communicated with
(3) B. P. No. 1517, dated 2-7-86.
(4) B. P. No. 225, dated 12-3-88.
(5) B. P. No. 73, dated 19-2-92, para. 2 (i).

VIII. It was once before urged, and may be repeated, that the Counter-Petitioner, having been in office for three years, cannot be ousted. In reply Petitioner begs to refer His Excellency in Council to the following orders:—

(1) G.O. No. 10 R.D., dated 4-1-92 (para 10) communicated with
(2) B. P. No. 73, dated 17-2-92.
(3) B. P. No. 10036, dated 20-12-82.

} Time during which suits, &c. under Regulation VI. of 1831 are prosecuted is excluded from the period of 3 years prescribed in para 7 of Board's Standing Order No. 172 (Old Edition).

IX. Having treated, at length, the various objections urged, now and before, against him, Petitioner next begs permission to advert, in this and the succeeding paras, to the objections to which Counter-Petitioner's claims are subject.

Appendix A makes it clear that the Karnamship belonged to another family known as Draksharamvaru. The last holder in that family was one Draksharam Venkanna, who died without male issue but with two daughters Kannamma and Venkamma, who, having been married respectively to Rayavarapu Venkatachellam and Venuturubilli Rayappa, had, by the time of their father's death, sons, who as daughter's sons of the deceased D. Venkanna, were his heirs. R. Kamaraju who was the eldest of the grandsons by Kannamma and V. Kamaraju who was the only grandson by Venkamma were his heirs according to both Hindu Law and departmental orders, and they were respectively appointed Karnams of the Peda Uppalam and China Uppalam villages. The Karnamship of the Peda Uppalam village having, thus, devolved on Petitioner's father in his own right and not through his father, his brothers (of whom Counter-Petitioner's father was one) had no right to a share in it as a matter of right. It was this consideration that led them to consent to, and the Principal Assistant Collector to order, the arrangement entered into by them all, out of courtesy and in deference to the wishes of their father, whereby the Service Inam Lands should be enjoyed in certain shares for their lives only and revert, on the death of each, to the working Karnam and the order about reversion was given effect to in 1878 by making over, to the Petitioner's father, the shares of the Counter-Petitioner's father and another. It is really surprising how, after all the above, Counter-Petitioner could advance any claims to the Karnamship and much less, how the authorites could have countenanced such feigned claims. Moreover, even granting that the Karnamship was conferred upon the Petitioner's paternal grand-father (as to which there is not an atom of evidence), Petitioner's father, as his eldest son, was entitled to it solely and to the exclusion of his other sons. Moreover, the Counter-Petitioner, being a Minor, could not be appointed to, and much less could not continue in, the office.

(1) B. P. No. 949, dated 12-4-74.
(2) G O. No 3479 R D., dated 14-6-86, communicated with
(3) B. P. No. 1517, dated 2-7 86.
(4) B. P. No. 225, dated 12 3-88.
(5) B. P. No. 73, dated 17-2-92, para 2 (i).

} X. For the foregoing reasons Your Excellency's Petitioner most humbly prays that she may be favoured with the Karnamship of Peda Uppalam, she being registered as Karnam and allowed to have the duties done by a deputy of her own choice subject to the approval of the nominee by the Revenue Authorities as allowed by the marginally noted orders.

For which act of Grace and Mercy, Your Excellency's Humble Petitioner shall, as in duty bound, ever pray.

NARSIPATAM,
26 November 1896.

Mark of KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of Peda Uppalam,
Sarvasidhi Taluk, Vizagapatam District.

APPENDIX A.

Previous History of the case from the commencement up to date (NOVEMBER 1896.)

The Karnamship of Peda Uppalam and China Uppalam orginally belonged to a different family from both Petitioner and Counter-Petitioner : the name of that family was Draksharamavaru. The last holder in that family was one Draksharama Venkanna,who died without male issue but with two daughters Kannamma and Venkamma, who, having been married respectively to Rayavarapu Venkatachalam and Venuturubilli Rayappa, had, by the time of their father's death, sons, who, as daughters' sons of the deceased D. Venkanna, were his heirs. R. Kamaraju, who was the eldest of the grandsons by Kannamma, and V. Kamaraju who was the only grandson by Venkamma, were his heirs according to both the Hindu Law and the departmental orders, and they were respectively appointed Karnams of Peda Uppalam and China Uppalam villages. The Karnamship of Peda Uppalam having thus devolved on Petitioner's father in his own right and not through his father, his brothers (of whom Counter-Petitioner's father was one) had no right to it. Petitioner's father Rayavarapu Kamaraju was Karnam for about 46 years from 1840 to 1886, when he died, leaving as his sole heir the Petitioner, his daughter aged about 14 years. Petitioner's mother having died before, Petitioner was in helpless condition, and taking advantage of the above state of things, one Rayavarapu Venkataramayya, a *divided* brother's son of the Petitioner's father, was brought on the scene by the maternal uncle and guardian Vaddiparti Sarraju who usurped the Karnamship with its emoluments. Soon after attaining her majority, Petitioner filed Regulation Suit No. 36 of 1890 in the Court of the Principal Assistant Collector who (a)dismissed it, vide para. 3 of my (b)petition to Board,Settlement, dated 29-1-91, on the ground that, Defendant, having held the office for more than 3 years, could not be ousted there-from. Against this Judgment, Petitioner sent up to the Board of Revenue on the(c) 29th January 1891, an appeal petition which was rejected by the Board in their (d)Proceedings No. 2877,Mis., dated 27th April 1891, on the ground that the post could not be conferred on the Petitioner, a female, when there were male members in the family. This Proceedings of the Board having unfortunately not reached the Petitioner, Petitioner addressed the Board a (e)reminder in September 1891, to which an (f)endorsement was sent referring Petitioner to Board's (g)Proceedings, No. 2,897 Mis., dated 27-4-91, already sent through the Collector. This endorsement is not forth-coming, but is referred to at length in Petitioner's (h application, dated 9-12-92 for a copy of the said Proceedings, which, after a technical (i)objection and reply, was granted in Board's (j)Proceedings, No. 185, Routine, dated 26-1-93. After receiving the said (k copy and gathering the necessary information, Petitioner addressed the Board an (l)appeal on 21-4-93 based on Board's Proceedings, dated 17-2-92, No. 73, with the result that (m)E. P. No. 1167 Routine, dated 9th May 1893, was sent to Petitioner informing him that orders were sent to him in Board's Proceedings, No. 2275, Mis., dated 13-4-93, to the Collector directing him to restore the suit to its former file and dispose of it on its merits as none of the objections made before was tenable. On the 27th June 1893, the Head-Assistant Collector delivered a (n)Judgment in Petitioner's favour. An appeal was presented thereupon by the Defendant to the Collector who remanded it for a finding on the question whether the family was divided or not. In his second inquiry, the Head-Assistant Collector erroneously thought that, though the division was made so long back as 1866, it was not carried out and passed (o)Judgment returning a finding that the family was undivided. The Collector delivered his (p)Judgment on 10-5-94 and observed that, under G. O., dated 6-5-93, No. 389, Revenue, according to which the Hindu Law of inheritence is applicable, Counter-

(a) Ex. 1.
(b) Ex. 2.
(c) Ex. 2.
(d) Ex. 3.
(e) Ex. 4.
(f) Ex. 5.
(g) Ex. 3.
(h) Ex. 6.
(i) Ex. 7.
(j) Ex. 8.
(k) Ex. 9.
(l) Ex. 10.
(m) Ex. 11.
(n) Ex. 12.
(o) Ex. 13.
(p) Ex. 14.

Petitioner, a male, was entitled to priorty over Petitioner, a female, as the family was an undivided one. Petitioner then (q)appealed to the Revenue Board, on 23-7-94, which after a (r)reference to Petitioner and his (s)reply thereto, was finally dismissed in Board's (t)Proceedings, dated 27-9-94, No. 5046 Mis. for reasons therein given. A (u)review petition to the Board met the same fate with the Board, vide their (v)Proceedings, dated 1st May 1895, No. 2181 Mis. Meanwhile Act III of 1895 was passed on 8-4-95, and brought into force from 1-10-95. Petitioner had a great mind to address His Excellency in Council, but there was Section 23 of the new Act staring in the face. Petitioner was thus in a fix and was agreeably surprised on hearing that a G. O. was passed in July 1896 as submitted in para II of the Petition and giving her an opportunity of doing so.

(q) Ex. 15.
(r) Ex. 16.
(s) Ex. 17.
(t) Ex. 18.
(u) Ex. 19.
(v) Ex. 20.

NARSIPATAM,
26 November 1896.

Mark of KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of the Peda Uppalam Village,
Sarvasidhi Taluk, Vizagapatam District.

List of Papers sent by Kravvidi Subhadramma, claimant to the Karnamship of Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District, with her Revision Petition, dated November 1896, to His Excellency the Governor in Council, Fort Saint George, Madras.

1. Judgment of the Principal Assistant Collector, Vizagapatam District, dated 28-10-90, in Regulation Suit, No. 36 of 1890.
2. Petition, dated 29-1-91, by Petitioner to Revenue Board, Settlement Department.
3. Board's Proceedings, dated 27-4-91, No. 2897 Mis. This is not forthcoming.
4. Reminder petition, dated—Sept. 91, to Board about her petition, dated 29-1-91 (Exhibit 2).
5. Endorsement by Board of Revenue, dated—on petition of September 91 (Exhibit 4).
6. Application, dated 9-12-92, by Petitioner to Board of Revenue (Board's Petition Register, No. 3843 of 1892).
7. Board's Proceedings, dated 19-12-92, No. 3,036 Rout: on her petition, dated 9-12-92. (Exhibit No. 6).
8. Petition, dated 1-1-93 replying the above (No. 7).
9. Board's Proceedings, dated 26-1-93, No. 185 Rout.
10. Appeal petition, dated 21-4-93, to Board L. R. by Petitioner.
11. Board's Proceedings, dated 9-5-93, No. 1167, Rout.
12. Judgment, dated 27-6-93 of the Head-Assistant Collector in Regulation Suit No. 36 of 90.
13. Second Judgment, dated 27-10-93 of do. do.
14. Collector's Judgment, dated 10-5-94 in Regulation Appeal No. 13 of 93.
15. Petition, dated 23-7-94 by Petitioner to Board (Board's Petition Register No. 2558 of 1894).
16. Board's Reference, dated 7-8-94 on Board's Petition Register, No. 2558 of 1894.
17. Petition, dated 22-8-94, of Petitioner to Board resubmitting records as per Exhibit 16.
18. Board's Proceedings, dated 27-9-94, No. 5406 Mis.
19. Revision Petition, dated to Board by Petitioner.
20. Board's Proceedings, dated 1-5-95, No. 2181 Mis.

EXHIBITS IN THE ABOVE LITIGATION.

21. List showing details of the shares, divided and respectively enjoyed by Rayavarapu Kamarazu and his brothers, in the Service Inam lands of the Karnamship of Peda Uppalam village.
22. Do. Do. China Uppalam village.
23. Proceedings of the Principal Assistant Collector, dated 7—4—66, No. 45.
24. Petition, dated 23—9—77 to Principal Assistant Collector by Petitioner's father Kamaraju.
25. Petition, dated 17—11—77 to do. do.
26. Principal Assistant Collector's endorsement, dated 29—1—78, No. 35 to Tahsildar.

27. Principal Assistant Collector's Takid to Tahsildar, dated 12-3-78, No. 364.
28. Principal Assistant Collector's Order, No. 50, date not given, but on or after 12-3-78.
29. Extract from A Register of the Peda Uppalam village for Fasli 1269.
30. Extract from the Land Register of the Peda Uppalam village.

BONDS AND KADAPAS.

31. Bond, dated 5-1-70.
32. Bond, dated 6-1-80.
33. Endorsement Bond, dated 28-9-81.
34. Bond, dated 19, 3, 81.
35. Cadapa, dated 8-4-70, No. 2.
36. Cadapa, dated 8-6-72, No. 4.
37. Cadapa, dated ఆంగిరస సంవత్సర ఆశ్వయుజ బ ౧౧, corresponding about October 72, No. 1.
38. Cadapa, dated 19-3-81, No. 3.
39. Cadapa, dated శారణ సంవత్సర చైత్ర శు ౧౧, corresponding about April 84, No. 5.
40. Cadapa, dated 22-7-86, No. 6.

DEPOSITIONS.

41.	Deposition of D. Appalaraju,		1st Witness for Defendant.		Six of these are Non-brahmins. The remaining four are Brahmins, it is true; but three of them were perfect strangers to the previous transactions of the parties.
42.	do.	A. Somaraju,	2nd	do.	
43.	do.	K. Appalaraju,	3rd	do.	
44.	do.	P. Nukayya,	4th	do.	
45.	do.	G. Yagnanarayana	5th	do.	
46.	do.	Y. Somayajulu,	6th	do.	
47.	do.	P. Chalamayya,	7th	do.	
48.	do.	A. Lakshmina-rayana Somayajulu	8th	do.	
49.	do.	V. Appadu	9th	do.	
50.	do.	P. Ademma.	10th	do.	

NARSIPATAM,
26th November 1896.

(signature) Mark of KROVVIDI SUBHADRAMMA,
Claimant to the Karnamship of the Peda Uppalam Village, Sarvasidhi Taluk, Vizagapatam District.

S. S. M. PRESS, VIZAG—20-11-96.—18.

1896.

FROM

KROVVIDI SUBHADRAMMA,
NARSIPATAM,
GOLGONDA TALUK,
VIZAGAPATAM DISTRICT,

To

HIS EXCELLENCY
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Dated 26
Despatched 27 } November 1896.
Received

ENCLOSURES:

1 Appendix,
1 List, } Appended to the Petn.
and 50 Enclosures as per List. By Separate Registered Packet.

SUBJECT.

Submits Revision Petition regarding the Karnamship of No. 85 Peda Uppalam, Sarvasidhi Taluk, Vizagapatam District.

Government of Madras.

Read GOs. 3846 of 96 and 196 and 2525 of 97.

REVENUE DEPARTMENT.

Endorsement No. 617 R, dt 24-March 97.

Dp 24/3/97

Note

The first petition to Govt is dt 26-11-96. The petition said to have been sent on 29-1-97 has not been received. ~~[illegible]~~

~~[illegible]~~.

THE petitioner is informed that no appeal lies to Government under Section 23 (1) of Madras Act III of 1895. as amended by act II of 1897.

2. The petition said to have been forwarded on the ~~29th~~ January last has not been received.

(By Order.)

(D.C)

24/3/97.

~~Under~~ *Secretary to Government.*

C.R. 23 March 97

5

FORT ST. GEORGE,

189 .

To ~~the petr~~ with Encls

Dd. 26.3.97

8 AC 22/3/97.

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

RE.D AGAIN G.O., No. 189 , DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A
LETTER OF GOVERNMENT							
STATEMENT WITH DITT							
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.							

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