Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 2053

DATED 11th May 1898.

[Despatch Abstract.]

Forwd to the Court of Wards letter from the Solicitor, India office forwg 2 copies of the cases P.C. No 65 of 1896 between the Appellant Raja of Bobbili & the Respondent Sri Inugunti Bhavayyamma Garu (a ward under the Court of Wards, Vizagapatam Dt.)

BACK PAPERS.

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

FURTHER PAPERS.

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

2220
21-5-98

In the Privy Council.

P. C. No. 65 of 1896.

ON APPEAL FROM THE HIGH COURT OF MADRAS.

BETWEEN

SRI RAJAH VENKATA SVETA CHALAPATI RANGA RAO BAHADUR GARU, Rajah of Bobbili - - - - - - (*Plaintiff*) *Appellant,*

AND

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

CASE FOR THE RESPONDENT.

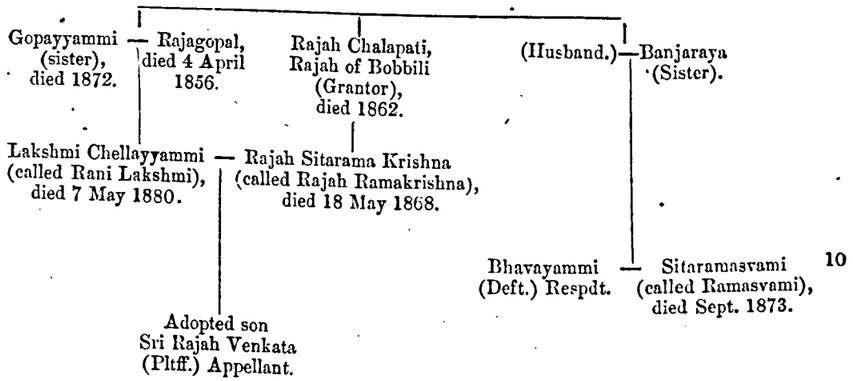
This is an Appeal which is preferred against a Decree of the High Court of Madras dated the 4th day of April 1894 which affirmed with costs the Decree of the District Judge of Vizagapatam dated the 18th day of November 1892 and dismissed the Appellant's suit and appeal with costs.

The suit out of which this Appeal arises was brought by the Appellant by his Plaint filed in the District Court of Vizagapatam on the 12th day of December 1890 against this Respondent a Ward of the Court of Wards represented by the Collector of Vizagapatam Agent to the said Court of Wards.

10 In such suit the Appellant sought to recover possession from this Respondent of the villages of Chidikada Jagannadhapuram (hereinafter called Chidikada only) which had been from the year 1862 admittedly in the possession first of the late Sitaramaswami the husband of the Respondent and then upon his death in September 1873 of this Respondent or of the Court of Wards on her behalf.

The original owner of the said Estate in the early part of the year 1848 was the Rajah of Bobbili whose full name is Sri Rajah Sveta Chalapati Ranga Rao Bahadur Garu but who will for shortness be called throughout this case Rajah Chalapati.

The annexed pedigree will show at a glance the relationship of the various parties herein mentioned to each other and to the said Rajah Chalapati :—



Record, p. 2, l. 19.

In his said plaint the Appellant alleged that on the 5th of April 1848 Rajah Chalapati had by an instrument in writing granted the said estate of Chidikada to Rajagopal his cousin who had married Gopayyammi sister of the said Rajah Chalapati as a gift and that the said estate was thereupon registered in the Collectorate as the property of the said Rajagopal.

That the said Rajagopal had enjoyed the said estate "as absolute owner" until the 4th of April 1856 when he died leaving him surviving his widow Gopayyammi and his only child the said Rani Lakshmi then a minor of the age of eight years and that the said mother and daughter thereafter lived under the protection of the said Rajah Chalapati.

p. 2, l. 33. That in order to get back the said estate of Chidikada the said Rajah Chalapati in collusion with his sister the said Gopayyammi put forward a false story that the grant to the said Rajagopal was a conditional grant the condition being that if the said Rajagopal died without leaving male issue the said estate should revert to the said Rajah Chalapati and that as the result of such collusion the said Rajah Chalapati himself wrote and procured the said Gopayyammi to write and forward to the Collector of the District on the 11th day of April 1856 letters setting up the said false case and asking for and consenting to a re-transfer of the said estate back into the name of the said Rajah Chalapati which was accordingly done by the Collector on the 16th day of May 1856.

p. 3, l. 20. That the said Rajah Chalapati having so become repossessed of the said village again granted it on the 19th day of February 1862 to his nephew Ramasvami (the son of another sister of his and the husband of the Respondent) who died childless in September 1873 when the said estate passed into the possession of the Respondent.

p. 3, l. 29. That in 1860 the said Rani Lakshmi married Rajah Ramakrishna son of Rajah Chalapati.

That in 1862 the said Rajah Chalapati died and was succeeded by his said son the said Rajah Ramakrishna who held and enjoyed the said Bobbili estate

until his death childless in May 1868 leaving authority to his widow to adopt under which authority she in February 1871 adopted the Appellant then an infant as a son to her deceased husband and that the Appellant did not attain his majority till the year 1881.

Record. p. 3, l. 39. That Gopayyammi died on the 21st March 1872 when the estate of the said Rajagopal which Gopayyammi had been entitled to for her life descended to and vested in the said Rani Lakshmi who in consequence of her close relationship to Ramasvami did not sue to eject him nor after his death his widow this Respondent from the said property but entered into an agreement with the Respondent allowing her to continue in possession of the said property for her life.

p. 4, l. 3. That such agreement was reduced to writing and dated the 6th day of February 1874 and that in order to give force to it a suit was instituted by the said Rani Lakshmi in the Vizagapatam Court to have the validity of the said agreement declared which suit was ultimately withdrawn by the said Rani Lakshmi at the solicitation of the Respondent the said Rani Lakshmi renouncing all her rights in the said property and allowing the Respondent to deal with the same as she pleased.

p. 4, l. 13. That the said Rani Lakshmi died on the 7th day of May 1887 on which date the Appellant claimed that the succession to the estate of the said Rajagopal opened to him and entitled him to sue to recover the said property as Rajagopal's daughter's son. He therefore prayed judgment for the said property and mesne profits.

p. 4, l. 28. The value of the said estate was stated in the said plaint to be Rs. 1,29,950 while the mesne profits were assessed at Rs. 12,995 per annum.

p. 8. In answer to such plaint the Respondent by the said Agent to the Court of Wards on the 21st day of September 1891 filed in the said Court her written statement by way of reply in which she denied that the said estate had been granted by the said Rajah Chalapati to the said Rajagopal on the 5th day of April 1848 or by any writing but stated that the same had been granted verbally to the said Rajagopal on the 15th day of August 1848.

p. 8, l. 13.

p. 8, l. 19. She also denied that the said estate had been granted to the said Rajagopal as the absolute owner. She admitted the retransfer on the Collector's Register of the said estate to the said Rajah Chalapati but denied that such retransfer was brought about by fraud or collusion.

p. 8, l. 29. As to the conveyance of the said estate by the said Rajah Chalapati to her said husband Ramasvami she alleged that the same was for good and valuable consideration and not as a gift and charged that as the said Rajah Chalapati had so sold the said property to her said husband the Appellant as now representing the said Rajah Chalapati was estopped from questioning such conveyance.

p. 9, l. 3. She also pleaded that the said claim was barred by the law of limitations as there had been adverse possession ever since April 1856, she denied the allegation of fraud made in the plaint and submitted that if the Appellant should be found to be entitled to set aside the conveyance to her husband this

could only be done on terms of his repaying and restoring what the said Rajah Chalapati had received from her said husband as consideration for the said conveyance.

On the 30th day of September 1891 the following issues were settled for trial in the said case:—

Record, p. 10, l. 12.

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

"2. Is the suit barred by limitation?

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

"4. Is Plaintiff estopped from bringing this suit?"

p. 10, l. 25. p. 11, l. 30. p. 15, l. 18. Evidence oral and documentary was then given and put in on either side this Respondent putting in amongst other documents Exhibits I. and II. being the conveyances in the year 1835 of the two villages the subject-matter of this suit to the said Rajah Chalapati. Exhibit VI. being the conveyance from the said Rajah Chalapati on the 19th day of February 1862 to the Respondent's husband purporting to convey the property in suit as a charitable gift but setting out the consideration paid or given therefor.

p. 21, l. 15. Exhibit XII. a letter dated the 15th day of April 1866 from the said Rajah Ramakrishna to the Collector protesting against the conveyance by the said Rajah Chalapati of the property in suit to the said Ramasvami on the ground that the said Rajah Chalapati had not the power to alienate the same for an inadequate consideration without the consent of his heir the said Rajah Ramakrishna.

p. 23. Exhibit XIV. a letter dated the 18th day of March 1874 from the said Rani Lakshmi to the Collector of Vizagapatam stating that the grant of the p. 23, l. 19. said estate (the subject-matter of this litigation) by the Rajah Chalapati to Rajagopal was upon condition that the said estate should revert to the grantor if the said Rajagopal left no male issue.

p. 26. p. 27. Exhibit XV. and XVI. the letters dated the 19th day of April 1856 of the said Gopayyammi and Rajah Chalapati to the Collector stating that the grant of the said estate to the said Rajagopal was a conditional grant upon terms that the same should revert to the Rajah Chalapati the grantor thereof if the said grantee should die without issue. That the said Rajagopal had left no male issue and that therefore the estate reverted to the grantor and that they respectively consented to and asked for the transfer of the same into the name of the said grantor.

p. 29. Exhibit XIX. dated the 3rd day of May 1856 showing that the said estate had been retransferred by the Collector into the name of the said Rajah Chalapati.

A commission was then issued on behalf of the Appellant for the examination of certain witnesses and under such commission there were examined on behalf of the Appellant three ladies.

The object of examining these ladies was to prove that the grant of the said property to the said Rajagopal was an absolute and hereditary grant and that the story of the said Gopayyammi the widow of the said Rajagopal supporting the case put forward by the said Rajah Chalapati that it was a grant of an estate defeasible on the death of the grantee without male issue was a false story collusively got up between the said Rajah Chalapati and the said Gopayyammi. Record. p. 37, l. 1 to p. 42, l. 5.

It is submitted that the evidence of the said ladies is not credible and further that even if credible it does not support the Appellant's case.

p. 66, l. 22. p. 80, l. 9. In the course of the trial the Appellant produced what was alleged to be the original draft of the conveyance of the said property from the said Rajah Chalapati to the said Rajagopal. No witness speaks to the execution of any such document. From the Judge's order rejecting the said document (R. 66, l. 28) it would appear that it purported to be the draft of a document which should bear a stamp of Rs. 50 but which bore a stamp of only Rs. 8 and it was accordingly rejected by the said Judge. It is submitted that no case was made by evidence for the admission of secondary evidence of any conveyance.

The Appellant also tendered in evidence certain documents referred to at pages 51 to 54 and 58 and 59 of the Record which were it is submitted rightly rejected by the learned Judge, because they were adduced only for the purpose of showing circumstances from which the alleged conveyance of the 5th day of April 1848 might be inferred, and because no foundation had been laid for adducing secondary evidence of such documents.

There were called and examined on behalf of the Respondent in all four witnesses.

p. 46 to p. 49. Three of these witnesses were called to prove and did prove the letter of the 18th March 1874 (Exhibit XIV., R. 23) to bear the signature of the said Rani Lakshmi.

p. 49, l. 29. The fourth witness for this Repondent was the Appellant and it is submitted that his evidence is of no value.

p. 61. On the 18th day of November 1892 the District Judge of Vizagapatam delivered his Judgment in the said case.

p. 63, l. 20. He set out the contentions of each party and the issues and upon these issues he found,—

p. 63, l. 9. (*a*) That the grant to Rajagopal was upon condition that the property should revert to the grantor if the grantee died without leaving male issue.

p. 68, l. 28 to p. 69, l. 11. (*b*) That the suit was one which was brought to obtain relief on the ground of fraud practised by the said Rajah Chalapati and Gopayyammi and that it was not shown that the Appellant was aware of their fraud before September 1888 when he himself says he became aware of it and that therefore the suit which was brought on the 19th November 1890 within three years of the fraud becoming known to the Appellant was not under the provisions of Act 95 of the Second Schedule of the Limitation Act (Act 15 of 1877) barred.

Record, p. 69, l. 12. (*c*) On the third issue he found that if the Appellant had been found entitled to recover the said property he could only have been declared to be so entitled upon condition of restoring what the said Rajah Chalapati had received from this Respondent's husband as consideration for the said conveyance of the 19th of February 1862 which he held to be conveyance for valuable consideration though it on the face thereof described the conveyance as a charitable gift.

p. 63, l. 36. (*d*) On the fourth issue which he dealt with first he held that the Appellant as the representative of his grandfather Rajah Chalapati who had conveyed the said property to this Respondent's husband for valuable consideration was estopped from maintaining the said suit.

He therefore made his decree on the 18th day of November 1892 dismissing the said suit with costs.

p. 77. Against such decree the Appellant appealed to the High Court of Madras and filed his Memorandum of Appeal on the 23rd day of February 1893.

p. 79, l. 1. Pending the said Appeal the Appellant applied to the said High Court to admit in evidence the alleged copy of the alleged conveyance by Rajah Chalapati to the said Rajagopal dated the 5th day of April 1848.

p. 82, l. 2. The said application came on for hearing before the High Court and was dismissed by the Order of the High Court dated the 4th day of April 1894.

On the same 4th day of April 1894 the learned Judges of the High Court delivered their Judgment in the said Appeal which they dismissed holding—

p. 85, l. 40. (*a*) That the learned Judge of Vizagapatam was wrong in holding that the Appellant was estopped from maintaining the said suit.

p. 86, l. 3. (*b*) That the law of limitation applicable was Act 14 of 1859 under which the Appellant's claim would have been barred in twelve years from the dispossession of the said Gopayyammi in 1856 unless he could establish that there was fraud or collusion between the said Gopayyammi and Rajah Chalapati.

p. 86, l. 17. (*c*) That the Appellant had failed to prove such fraud or collusion the only evidence on this head produced by him being the evidence of the three ladies hereinbefore referred to which evidence the High Court held to be of no weight.

p. 86, l. 29. (*d*) That the learned District Judge was right in refusing to admit in evidence the alleged copy of the alleged grant by Rajah Chalapati to the said Rajagopal.

p. 87, l. 6. (*e*) That the finding of the District Judge that the said grant to Rajagopal was a conditional grant was well based upon the evidence in the case.

p. 87, l. 10. They therefore dismissed the said Appeal with costs.

p. 87, l. 15. The Decree of the High Court giving effect to the said judgment is dated the said 4th day of April 1894.

Against the said decree the Appellant has preferred this Appeal but the Respondent submits that this Appeal should be dismissed and the said Decree

of the High Court sustained and confirmed for the following amongst other

REASONS.

1. Because the Appellant has failed to make out his title to recover the said property.

2. Because the Appellant based his title entirely upon an instrument in writing dated the 5th day of April 1848 and did not produce it nor lay any foundation for the admission of secondary evidence of it.

3. Because there are concurrent Judgments of the District Court and of the High Court holding that the grant to Rajagopal by Rajah Chalapati was a conditional grant.

4. Because it has been rightly held by the High Court that the Appellant has failed to prove any fraud or collusion such as might take the case out of the operation of the Limitation Act (15 of 1859).

5. Because the Appellant's claim is barred by the Law of Limitation.

6. Because the Courts below have rightly held that the draft of a conveyance which was insufficiently stamped was not admissible in evidence to prove the same.

ARTHUR COHEN.
J. H. A. BRANSON.

Enc: to C No 3427 of 98.

IN THE PRIVY COUNCIL.

P. C. No. 65 of 1896.

ON APPEAL FROM THE HIGH COURT OF MADRAS.

BETWEEN

SRI RAJAH VENKATA SVETA CHALAPATA RANGI RAO BAHADUR GARU, Rajah of Bobbili - - - (*Plaintiff*) *Appellant,*

AND

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

CASE FOR THE RESPONDENT.

P.C. 2753 1898

SOLICITOR,

India Office.

No. 65 of 1896.

In the Priby Council.

ON APPEAL FROM THE HIGH COURT OF JUDICATURE AT MADRAS.

Between SRI RAJAH VENKATA SVETA CHALAPATI RANGA RAO BAHADUR GARU, RAJAH OF BOBBILI - - *Appellant*

AND

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

CASE FOR APPELLANT.

This is an Appeal against a Decree of the High Court of Madras, which affirmed, though on different grounds, the decision of the District Court of Vizagapatam. The Suit was brought by the present Bobbili Rajah, hereinafter called "the Plaintiff," to recover the Estate of Jagannadhapuram. This property, which was purchased in 1835 by the Plaintiff's ancestor, hereinafter called "the First Rajah," was by him granted in April, 1848, to his brother-in-law, Inuganti Rajagopala Rayanin, hereinafter called "the First Transferee" for an estate, which as contended by the Plaintiff was absolute and unconditional. On the death of the First Transferee, without male issue, it would have descended successively to his widow, his daughter, and his daughter's son, the present Plaintiff. The First Rajah, however, on the death of the First Transferee, induced the widow (who was his own sister) to return the estate to him on the assumption that it had only been held for life. He then conferred it upon one Inuganti Sitaramasvami, hereinafter called "the Second Trans-

feree," upon whose death, without issue, it came into the hands of the Defendant, his widow, from whom it is claimed.

The relationship of the parties will appear from the following

PEDIGREE:—

RAJAH OF BOBBILI.

m. Lakshmi Narasayammi, Plfs.' 3rd Witness

Sveta Chalapati Ranga Rao First Rajah, d. 1862	Gopayyammi, died 21 March, 1872 m. Rajagopala Rayanin First Transferee, d. 1856	Bangaraya Inuganti Sitaramasvami Second Transferee d. Sept., 1873 m. Bhavayyamma Defendant
Rayadappa Ranga Rao Second Rajah, d. 18 May, 1863 m. Chellayyammi d. 7 May, 1887	Chellayyammi	
adopts Chalapati Ranga Rao Plaintiff		

The First Rajah is also said to have had two younger brothers, or possibly cousins, whose widows are the Plaintiff's first and second Witnesses.

THE FACTS OF THE CASE

are as follows:—

Rec., pp. 10 & 11. In 1835 the First Rajah purchased two properties, which constitute the estate of Chidikada Jagannadhapuram. It is alleged by the Plaintiff that in or about April, 1848, he conferred it upon the First Transferee. The document of transfer is not in existence, or at all events is not produced. A draft of it was produced by the Plaintiff at the trial, but was rejected by both Courts, for reasons which form one of the grounds of Appeal. The Registry of Estates for Vizagapatam contains the following entry:—

Rec., p. 13.

"Jagannadhapuram Thundeesuravaram, of Madgole.

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

"In the presence of—
"T. Strinivasa Rao,
"Vakil to the former, and
"G. Appalanarisimhulu,
"Vakil to the latter.

"(Signed) P. B. Smollett,
"Agent to the Governor.
"True Extract—
"P. B. Smollett,
"Agent to the Governor."

Rec., p. 25. On the 27th September, 1848, the Agent to the Governor at Vizagapatam wrote as follows to the First Transferee:—

"To Rajah Inuganti Rajagopal Rao Garu.

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

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

"Office of the Agent to the
"Governor, Vizagapatam, 27th,
"September, 1848.
"Camp, Vizagapatam."

"(Signed) P. B. Smollett,
"Agent to the Governor."

Rec., p. 14. The permission referred to in this letter bears the same date, and similarly recites a gift by the First Rajah to the First Transferee. On the 6th February, 1849, the Rajah wrote as follows to one of his own officials:—

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

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

"Order issued to Sasapu Lakshminayudu's son, Papinayudu. As we "gave to Rajah Inuganti Rajagopala Rayanin Garu all the villages of "Jagannadhapuram, Thandisuravaram, and Chidikada, etc., with their "hamlets which are attached to Madugula, and which we acquired by "means of purchase, and the Pappuchatti seri land settling that he should "enjoy the annual profits derived therefrom, after paying every year the "revenue due to Government, you should take the Kadapas hereafter "from the people, in the name of Rajah Rajagopala Rayanin Garu only. "You shall enter his name alone in the accounts we send hereafter."

"14th Makha Sudha of the year
"Kilaka, 6th February, 1849."

"(Signed)" ——— (illegible).

It is submitted that these documents establish an absolute and unconditional gift to the First Transferee, or at all events throw the onus upon those who assert that the gift was conditional or limited to establish the fact.

Rec., pp. 26 & 27. On the 11th April, 1856, Gopayammi and the First Rajah wrote letters in almost identical terms to the Collector, in which they informed him of the

death of the First Transferee on the 4th April, and stated that the Rajah had taken possession again of the villages in pursuance of a stipulation made at the time of the gift that the villages should revert to the donor if the donee died without male issue, the letters ended with a prayer for registration in the
Rec., p. 29. name of the Rajah. On the 3rd May, 1856, the change of registry was made,
Rec., p. 28. and this was communicated to the Rajah by the Collector on the 14th May, 1856.
Rec., p. 15. On the 19th February, 1862, the First Rajah executed in favour of the Second Transferee a document called a deed of gift, but which purported to have been made for consideration offered by the Transferee, whereby he assigned the same villages to him to be enjoyed from generation to generation.
Rec., pp. 16 & 17. On the 29th July of the same year the Rajah issued two orders to his own officials to give effect to this grant.
Rec., p. 18. The First Rajah died in 1862, and was succeeded by the Second Rajah. On the 7th January, 1863, he wrote a letter to the Second Transferee promising to get registration effected in his name. This was not done until 1866. On
Rec., p. 19. the 5th April of that year the Second Transferee addressed the Collector on the subject. He wrote to the Second Rajah on the subject, and received an
Rec., p 21. answer on the 15th April, declining to join in the registration; the change of
Rec., p. 22. registry was, however, directed by the Collector, notwithstanding his objections on the 23rd April.

The Second Rajah died in 1868, and was succeeded by his widow Chellayammi, who adopted the Plaintiff in 1871. The Second Transferee died in 1873, and was succeeded by his widow, the Defendant. Chellayammi died in May, 1887, and the Plaintiff, who attained his majority in 1881, filed the present suit in the Court of the District Judge of Vizagapatam on the 12th December, 1890.

Rec., p. 11. The Plaint set out the above series of facts and alleged that the retransfer of the estate to the First Rajah after the death of the First Transferee was effected in consequence of the false representation made to the Collector by Gopayyammi, and that his own right as daughter's son of the First Transferee accrued on the death of Chellayammi.

Rec., p. 8. The Defendant, who was under the guardianship of the Court of Wards,
Rec., p. put in her written statement, whereby she asserted that the estate given to the First Transferee had been truly stated to be one which reverted to the First Rajah on his death without issue. It further asserted that the grant to the Second Transferee having been for valuable consideration, the Plaintiff was estopped from disputing it, and finally, that he was barred by lapse of time.
Rec., p. 10. All these points were raised by the issues. On the 18th November, 1892, the District Judge made an Order rejecting a document purporting to be the draft of the first transfer, on the ground that it showed that the actual document had been insufficiently stamped.
Rec., pp. 37, 39, & 41. The Plaintiff examined three ladies, of whom the first and second were widows of brothers of the First Rajah, and the third was a widow of the First Rajah's father, all of them spoke to a conversation between the First Rajah and his sister, widow of the First Transferee, in which, at the request of the Rajah, she consented to abandon her rights under the transfer, and to allow him to resume possession.

Rec., p. 25. wro

On the 18th November, 1892, the District Judge pronounced his Decree dismissing the suit. He found upon the fourth issue that the Plaintiff was estopped by the second transfer from setting up his present case. Upon the first issue that the draft of the first transfer must be rejected, and that the actual transfer must be held to have been conditional. As regards the plea of limitation he found that there was no evidence that the Plaintiff was aware of the alleged fraud till 1888, and that whether the suit came under Article 95 or Article 141 it was within time.

Rec., p. 64.

Rec., pp. 06—68.

Against this decision the Plaintiff appealed to the High Court, and by a special petition he tendered the draft of the first transfer, and prayed that it might be received. This Petition was rejected by Order of the 5th October, 1892.

Rec., p. 77.

Rec., p. 79.

On the 4th April, 1894, the High Court pronounced their decree dismissing the Appeal with costs. In their Judgment they held, differing from the District Judge that the doctrine of estoppel did not apply. As to limitation they considered that the evidence of the three ladies as to collusion could not be relied on, and that in the absence of collusion the Suit was barred by Article XIV. of 1859.

Rec., p, 85, l. 40.

Rec., p. 86.

They agreed with the Judge in rejecting secondary evidence of the first transfer. They held that the onus of proving that it was unconditional rested with the Plaintiff, but that if it rested on the Defendant to show it was conditional she had sufficiently proved it by her documentary evidence.

It is submitted that this Decree and Judgment are wrong in law, and should be reversed for the following amongst other

REASONS.

1. Because the draft transfer was wrongly rejected.
2. Because independent of it the contemporaneous documents established that it was unconditional.
3. Because the documents of 1856 did not rebut this evidence.
4. Because the Court was wrong in holding that the Suit was barred by limitation.

JOHN D. MAYNE.

Vizagapatam Dist.)

No. 65 of 1896.

In the Privy Council.

ON APPEAL FROM THE HIGH COURT OF MADRAS.

BETWEEN

THE RAJAH OF BOBBILI - *Appellant*

AND

INUGANTI BHAVAYYAMMI *Respondent.*

CASE FOR THE APPELLANT.

SURR, GRIBBLE & OLIVER,
12, Abchurch Lane,
E.C.,
Agents for Appellant.

Wm. Clowes & Sons, Limited, Printers, 27 & 28, Newman's Court, Cornhill, & 23, Boy Court, Ludgate Hill, E.C.

O 18 4,000—19-7-97.

Revenue (1898) Department.

CURRENT No. 3124

3 Dec 11/5/98

From The Solicitor to the Secretary of State for India London.

Endt. No. 2053 d/11.5.98.

Order

Forwarded to the Court of Wards.

Ellis 11.5.98

In the Ct of Wards. Lucas through. Returned here. Despr

Lucas 11/5/98

Please keep copy of the current.

SAV 10/5/98.

No.

Dated 19 April
Received 9 May
Registered 9 "
Enclosures 2
Spare copies.

SUBJECT.

Submitting to Govt. 2 copies of the cases in P.C. No. 65 of 1896 between the Appellant Rajah of Bobbili & the Respondent Sri Inuganti Bhavayyamma (a ward under the Court of Wards, Viz, Vizagapatam Dist.) and informing Govt. that the appeal will be heard in the course of the present month.

ARTMENT.

BACK PAPERS.

G.O.	No.	Department.	Date

FURTHER PAPERS.

G.O.	No.	Department.	Date.

India Office,
Whitehall S.W.
19th April 1895.

Privy Council Appeal,
Madras

Sir,

Sir, Sri Rajah Venkatabroyudu Chalapathi Ranga Rao Bahadur, Raja of Bobbili, Appellant

and

Sri Smugunti Bhavayammi a ward under the Court of Wards and represented by their agent the Collector of Vizagapatam ... Respondent.

I beg to send you herewith two copies of the Appellant's and Respondent's cases in this appeal, and to inform you that in all probability the appeal will be heard by the Privy Council in the course of the present month.

I am, Sir,
your obedient Servant,
(sd) A. Wilson
Solicitor to the Secy. of State.

The Secretary to Govt.,
Rev. Dept.

T.P.K.
11.5.95

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

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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