

## MADRAS RECORD OFFICE.

Government of Madras.

*Judicial* DEPARTMENT.

|          |          |                          |
|----------|----------|--------------------------|
| G.O. No. | 821      | Press<br><del>Mis-</del> |
| 216-217  |          |                          |
| Dated    | 30 - 6 - | 1840.                    |

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*Proceedings of the Madras Government, Judicial Department,  
30th June 1860.*

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No. 216. Read the following Proceedings of Government in the Military Department, dated  
15th June 1860, No. 2,220.

*Referring for the opinion of the Sudder Adálut,  
with reference to the provisions of the Articles  
of War for the Native Army, whether a heir  
nominated by a Soldier is entitled to his effects,  
whether she be heir at law or not.*

(Vide Proceedings, Military Department,  
dated 15th June 1860, Nos. 191 and 192.)

No. 217.

ORDER THEREON, 30th June 1860, No. 821.  
Referred for the opinion of the Government Pleader.

(Signed) T. PYCROFT,  
Chief Secretary.

# MILITARY DEPARTMENT.

## PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

*Memo. from the Adjutant General of the Army, Fort Saint George, 13th June 1860, No. 377.*

The Commander-in-Chief has the honor to submit for the decision of Government the within reference from the Officer Commanding Mysore Division.

2. Sir P. Grant is of opinion, that the Heir to property nominated by a Soldier is absolutely entitled to the Effects of that Soldier without reference to whether he be Heir at Law or not.

*From the Officer Commanding Bangalore, 6th June 1860, No. 849; to the Adjutant General of the Army, Fort Saint George,*

In forwarding the copies of correspondence as per margin, I have the honor to request

1. Copy of a letter from the Officer Commanding 4th Regiment Native Infantry, to the address of the Brigade Major Bangalore, dated 12th October 1859, No. 111.

1. " letter from the Brigade Major Bangalore to the address of the Officer Commanding 4th Regiment Native Infantry, dated 15th December 1859, No. 1759.

1. " letter from the Brigade Major Bangalore, to the address of the Superintendent of Police, dated 18th April 1860, No. 586.

1. " letter from the Superintendent of Police, to the address of the Brigade Major Bangalore, dated 18th May 1860, No. 319.

that you will be good enough to lay the following case before His Excellency the Commander-in-Chief, in order that it may be decided by the proper legal authority whether the decision of the Superintendent of Police is correct or not.

I would add that the Superintendent of Police in his decision seems to have overlooked the provisions of the 102nd and 103rd Articles of War, Native Troops.

CASE

Under instructions from the Officer Commanding 4th Regiment Native Infantry, the sum of Rupees 48-8-6 was paid to Ameen Sahibah, wife and registered Heir for property of the late Private Abbass Ally of that Corps,—about the 18th April last, Ameen Sahibah brought a petition to the Brigade Major, which stated that the Cazee of the Police Department had compelled her to give up the money to the deceased Private's mother, on the plea, that, as she was not the deceased Private's wife by Shadee, she had no legal claim to his property.

*From the Officer Commanding 4th Regiment Native Infantry, Meaday, 12th October 1859, No. 111; to the Brigade Major Bangalore.*

I have the honor to enclose you a Cash Receipt No. 742, for Rupees 48-8-6, being the amount of Estate of the late Private Abbass Ally, No. 1121, G. Company of the Regiment under my Command, and request that you will on receiving intimation from the Superintendent of Family Payments that he has no claim on account of Family Remittance against the Estate, pay the said sum over to Ameen Saib, wife, who is the Registered Heir to property of her late husband Abbass Ally.

*From the Brigade Major Bangalore, 15th December 1859, No. 1759; to the Officer Commanding 4th Regiment Native Infantry, Meaday.*

*Estate of the late Private Abbass Ally, No. 1121, G. Company of the 4th Regiment Native Infantry.*

| From                                             | To whom payable                                   | Amount     | Acknowledgment—               |
|--------------------------------------------------|---------------------------------------------------|------------|-------------------------------|
|                                                  |                                                   | Rs. As. P. | signature or mark.            |
| Officer Commanding 4th Regiment Native Infantry. | Ameen Saib, wife of her late husband Abbass Ally. | 48 8 6     | her x mark—Initialed J. M. G. |

I have the honor to acknowledge the receipt of your letter of the 12th October 1859, No. 111, giving cover to a Cash Receipt for Rs. (48-8-6) forty-eight, Annas eight and Pice six, particulars

and acknowledgment of payee as per margin.

From the Brigade Major Bangalore, 18th April 1860, No. 586; to the Superintendent of Police, Bangalore.

I have the honor to request that you will be good enough to inform me whether the statement in the accompanying Petition is correct.

The sum of Rupees 48-6-0 was paid by me to Ameen Sahibah, widow and registered Heir for property of the late Private Abass Ally of the 4th Regiment Native Infantry, and the petitioner asserts that by order of the Cazeer attached to your Office, she was compelled to give up this money to the Private's mother to avoid imprisonment.

From the Superintendent of Police, Bangalore, 18th May 1860, No. 319; to the Brigade Major Bangalore.

In reply to your letter,\* I have the honor to inform you that Rupees (48-6-0) is a sum which was decreed by this Court, after enquiry by the Cazeer, to the late Private Abass Ally's mother, she being proved to be his rightful Heir according to Mahomedan law. The petitioner Ameen Sa Bee, pleaded that she received the money as registered Heir, but upon its appearing that she had never been married to the Sepoy and was of a different caste (Mahratta) this plea was over-ruled, it being considered that a payment made to a party, merely because he or she is registered as Heir, should be viewed as a summary act, to hold good only, so long as no adverse Judgment is given in a Court of law. The decree has not been ordered to be carried out, and therefore the petitioner's statement that she has been forced to pay the money is incorrect.

#### ARTICLES OF WAR FOR THE NATIVE ARMY.

##### SECTION IV.

##### Effects of the Dead.

##### ARTICLE 102.

When any Officer or Soldier, or any person receiving public pay drawn by any Officer in charge of a public Department belonging to the Army, may die, or be killed in the service, the Commanding Officer of the Regiment or party, or Officer in charge of the Department shall, if no Heir or Executor be present, secure his Effects, and direct an Inventory thereof to be taken, a duplicate of which is to be lodged in the Office of the Adjutant, or Officer in charge of the Department.

##### ARTICLE 103.

If there be no Heir or Executor on the spot, the Effects are to be publicly sold; the Commanding Officer of the Regiment or party, or Officer in charge of the Department, after discharging the debts of the deceased, viz. the expense of funeral ceremonies, his debts in Camp or Quarters, and Regimental debts of every description, shall account for the residue to the Heir or Heirs declared by Will, whether written or verbal, or nominated in the Regimental Register, or in failure of such to the legal representative of the deceased; and in the event of no Executor, Heir, or other representative of the deceased attending and establishing his claim within twelve months from the date of the casualty, the amount in the hands of the Officer having charge of the Estate, is to be remitted to the General Treasury at the Presidency.

ORDER, No. 2220, 15th June 1860.

Ordered that the case submitted in the foregoing correspondence, be referred through the Judicial Department for the opinion of the Judge of the Sudr Adalat,

\*Act No. XIX of 1847. with reference to the provisions contained in Articles 102 and 103 of the Articles\* of War for the Native Army.

(True Extract.)

To the Judicial Department.  
,, Adjutant General.

Exd. J. E. Cashart.

Secretary to Government.

For of June

Judicial. 1860. De Kande

Proceedings of Court in the  
Military Dept. No 2220.

dated 15<sup>th</sup>  
Dec 26 June 60.

3 years Office.

No 1039.

Referring for the opinion  
of the Judge a subject with  
reference to the provisions  
of the Articles of War for  
the Practice Army, whether  
a heir nominated by a  
Judge is entitled to his  
effects, whether he  
be heir at law or  
not.

With an Order.

Order of the 30 June 1860. No 821.

Referred for the opinion  
of the Court. Pleader  
or.

No 2.

Refers to 1000

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The Court. Pleader 9 Aug 1860  
with the 2220- (Aug 1860)

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