

Political (1898) Department.

ORDINARY MS.

G.O., No. 340

DATED

19-5-98

RECEIVED

[Despatch Abstract.]

Declining to accede to the request of Muhamad Ghais that the allowance of Rs. 295 per annum drawn by his brother Muhamad Nur-ud-din for the up keep of the tomb of Shah Karim-ulla at M. Thome may be continued to him

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
536/98 232/00	129 26/98	Grant of Revenue					

Political (1898) Department.

CURRENT No. 470



Note. Entries in the Petition Register.
No other petitions from this
petitioner.

R.V.
1/4/98

From

H. A. Sinn Esquire J.C.
Private Secretary to
H.E. the Governor.

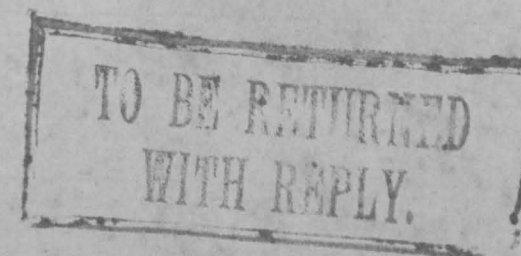
Order

No 966 of 22 April 1898.

Referred to the Paymaster,
Carnatic District, for report.

M. Arundel
Chief Secretary
22.4.98

Cus
21.4.98



No.

Dated 25th March 1898.

Received

Registered

Enclosures 2

Spare copies.

SUBJECT.

Transfer a petition from
Mahomed Ghose Sahib
siding at 1057 Jami Khan Bahadur
Road, Triplicane, praying that
the Yeomiah allowance of
Rs 24 9 4 may be re-transferred
in his name.

R.O. Mess complete

R.V.
30/5/98

/ By order
L. M.

Private Secretary.

BACK PAPERS.

G.O.	No.	Department.	Date.
c no	230	FDK 7-98 (do 898)	
	4-2-98	= 91	
	23-5-96	= 323	
	12-12-81	= 566	
	3-2-72	= 227 RD	
	29-6-68	= 1815 RD	
	566:12-12-81	10K	
	354:14-6-96	a	
	2261:26-8-68	RD	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Exhibit A.

(2)

Stamp Paper

On hundred and Ten Rupees

4 Rupees 114-14-18

In the High Court of Judicature at Madras

Testamentary Original Sub. No. 8 of 1897

Mohamed Ghouse Sahib — Plaintiff

-vs-

Mohamed Nizamuddin Sahib — Defendant

Stamp fee for Probate herein

(Sigd) C. E. Seneeraparagava Charier

Vakil for Plaintiff

3-11-97

(3)

In the High Court of Judicature at Madras
Be It Known That on the thirteenth day of September
one thousand eight hundred and ninety seven the
Last Will and Testament of Mohammed Muddosen
Sahib lately residing at Azodeen Khan Street, Triplicane,
Madras, but now deceased who died at Madras,
on or about the 8th day of March 1882 a Copy, whereof is here
unto annexed was proved and Registered in the said Court
and administration of the property and credits of the
said deceased and in any wise concerning his said
Will limited to the Presidency of Madras was under and
by virtue of the Decree in F.O.S. No. 8 of 1897 on the file of
the said Court dated the said Thirteenth day of September
1897 granted to Mohammed Ghouse Sahib full brother of the
said deceased and a clerk in the service of His High-
ness the Prince of Arcot residing at No. 51 Janay, Jehan
Khan Road, Triplicane, Madras, as the Executor appoin-
ted by the said Will, he having undertaken to adminis-
ter the same and to make a true inventory of the said pro-
perty and credits and to exhibit the same in this Court at or
before the expiration of a year next ensuing, and also within
the same period to render a true account thereof.

Given under the Seal of the said Court at Madras

(H)

aforesaid the 20th day of November in the year of Our Lord
One thousand eight hundred and ninety seven

(Sgd) J. R. Atkinson

Sgt. Registrar Original Side

Probate Folio 5

The Probate and Administration Act of
1881. S. 90

(1) An Executor or Administrator has subject to the provisions
of this Section power to dispose, as he thinks fit of all or any
of the property for the time being vested in him under Sec-
tion 4

(2) The power of an Executor to dispose of immovable pro-
perty so vested in him is subject to any restriction which
may be imposed in this behalf by the Will appointing him,
unless probate has been granted to him and the Court which
granted the Probate permits him by an order in writing, not-
withstanding the restriction to dispose of any immovable
property specified in the order in a manner permitted
by the order

(4) A disposal of property by an Executor or Adminis-
trator in contravention of sub-Section (2) or Sub Section
(3), as the case may be, is voidable at the instance of any
other person interested in the property

(Sgd) J. R. Atkinson

Sgt. Registrar Original Side

1898
Pall
No. 2
470

(5)

Exhibit B.

N^o 74 of 1898.

Paymaster General's Office,
18th Feb 1898

Muhammad Ghans Sahib is informed
with reference to his petition dated 15th Instant that
the allowance for the up keep of the tomb at
Kishnampet having been permanently transferred
in the name of Muhammad Nizam-ud-
din G. O. N^o 323 dated 23rd May 1896 Political, his
prayer for retransfer of that allowance in petition
name is inadmissible.

Anglo-Sayer Lt. Colonel
Paymaster General's Office
Chopra

Supd. Lt. Muhammad Ghans Sahib.

(6)

CURRENT No 470

To

HIS EXCELLENCY

SIR ARTHUR ELIBANK HAVELOCK G. C. M. G.,

G. C. I. E.,

GOVERNOR OF MADRAS.

The humble Memorial of Mahomed Ghouse Sahib,
residing at No. 51, Jani Jehan Khan's
Road, Triplicane, Madras.

Most Humbly Showeth,

That your Excellency's Memorialist humbly begs to bring the following facts to your Excellency's noble consideration praying that justice will be meted out to him and his grievances redressed.

2. That your Excellency's Memorialist is the younger brother of Mahomed Nurudeen Sahib who was drawing a Yeomiah allowance of Rs. 24—9—4 per mensem from the office of the Paymaster of the Carnatic stipends Madras, for the upkeep of the tomb called Hazruth Karimulla Shah Sahib's Durgah, situated in Mylapur, Madras, of which he was the Muthuvalli,

3. That at the request of the said Nurudeen Sahib, the said Yeomiah allowance was transferred in the name of your Excellency's Memorialist, as per G. O. No. 566, dated 12th December 1881, which your Excellency's Memorialist was drawing up to May 1896. That under his last will and testament dated 15th January 1882, the said Mahomed Nurudeen sahib appointed your Excellency's Memorialist, Muthuvalli of the said Karimulla Shah Sahib's Durgah and its endowments, of which Probate has been granted by the High Court of Judicature at Madras. Copy enclosed Vide Exhibit A.

4. That, on the misconception of facts by the then Paymaster Carnatic Stipends, in the face of the several petitions presented to him by the deceased Mahomed Nurudeen Sahib from time to time regarding the Muthuvalliship and Your Memorialist's claim there to, and in the face of the statement of the said Nurudeen Sahib made in person and recorded by the then Paymaster. Your Excellency's Government permanently transferred the Yeomiah allowance in the Name of Mahomed Nizamudeen Sahib in G.O. No. 323, dated 23rd May 1896.

5. That your Excellency's Memorialist petitioned the Paymaster to recommend his case to Government and have the said Order of transfer cancelled. But that to his misfortune Your Excellency's Memorialist was informed that his request is inadmissible as the allowance was transferred by Government to another person in the G. O. referred to supra Vide Exhibit B.

5. That Your Excellency's Memorialist respectfully submits that G. O. No. 323, dated 23rd May 1896, was passed on the mistaken report of the then Paymaster who entirely lost sight of the several material records in his Office presented by the late Nurudeen Sahib establishing Your Memorialist's claim to the Muthuvalliship.

6. That the High Court of Judicature at Madras granted the Memorialist Probate in terms of the Will of the late Mahomed Nurudeen Sahib after a searching enquiry regarding Your Memorialist's claim to the Muthuvalliship.

7. That the fact that the High Court have granted Probate in terms of the Will itself is conclusive proof to Your Excellency's Memorialist's claim to the office, which the Civil Law of the land has recognized.

8. That Your Excellency's Memorialist humbly submits that all the material papers in the office of the Paymaster Carnatic stipends, will establish beyond doubt, Your Memorialist's claim to the office and begs that in the light of those records Your Excellency will be pleased to order the continuance of the allowance to Your poor Memorialist.

9. That in this connection Your Excellency's Memorialist begs to add that it had been his other great misfortune that this subject should have been handled by 3 different Paymasters, none of them were fully conversant with the whole subject. This has been more or less, the reason for the misconception of facts.

10. That, under the foregoing circumstances, Your Excellency's Memorialist throws himself humbly upon his bended kness and craves justice at Your Excellency's noble and generous hands which are always extended to the poor and aggrieved.

For which act of kindness and charity, Your Excellency's Memorialist shall ever pray for Your Excellency's long life and prosperity.

Muhammad Ghouse

Political (1898) Department.

CURRENT No. 556

From

*Muhammad Ghouse Sahib,
residing at N° 51, Jani
Jehan Khan Road,
Triplicane, Madras.
No. -*

Order

Dated 14th }
Received 15th } April 1898.
Registered 16th }

Enclosures 2

Spare copies.

SUBJECT.

*Praying for the continuance
of Yeomiah allowance.*

*9/1
4.2.98 C/470*

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.



Stamped

To,
The Honorable
Sen Henry William Bliss B.A. N.C. 96
Senior Member of Council
With the Governor
Stonehousehill

(W) Current N^o 574

To,

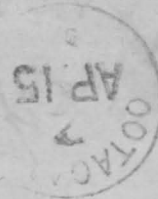
The Honourable Sir Henry
William Bliss B.A. F.R.S. I.C.
Senior Member of Council
Fort Saint George.

The humble petition of
Mahomed Ghouse Sahib, residing at
N^o 51, Jani Jehan Khan's Road,
Triplicane, Madras:

Most Humbly sheweth,

That Petitioner begs leave to
lay his humble case at your honour's feet
with the sanguine hope that your honour
will not turn the distressed out of doors.

That Petitioner praves that
before your honour's approaching
departure to enjoy your well-earned
repose at home after a long and



Encls. No 2 to Coll. N^o 556990

(11)
of glorious gubernatorial career, your
honour will, for the sake of mercy,
do this last charitable act in consideration
of his being bereft of all help and
turned into irretrievable disasters.

That Petitioner need not reiterate
that the justice and compassion your
honour has shown in innumerable
instances while filling the gubernatorial
chair will not but be looked back
with sincere regret after your honour's
retirement from active life.

That Petitioner therefore entreats
that that charitable benevolence
which your honour has evinced in
less deserving circumstances will not
be withheld in the case of your
Petitioner whose sufferings and daily
increasing distress have almost
destroyed him. Your honour in

(12)
granting his prayer under the circumstances
of his case in the enclosed memorial will
not only be doing a deserving act of
charity but will also be showing to the
world how your honour has afforded
succour to one who is sinking into ruin
for want of sheer necessities of life.
Gracious Lord; this act of charity
will not fail to have its due from
the hands of Him before whom all
creations are alike.

For which act of charity
Petitioner as in duty bound shall ever
pray for your honour's long life
and prosperity -

Madras
14 April 1898 } Muhammad Ghous.

(13)
Political (1898) Department.

CURRENT No. 624



M.O. written to for
Mr Barclay's letter of 25-11-1811 &
for Mr Mackenzie's letter reply of 10-12-1811.
connected papers if any.

2/5/98

Paper recd. & file
subm.

7/5/98

Order

From
The Paymaster
Carnatic Stipends
Chepak.

No. 167 of 1898

Dated 29th }
Received 30 } April 1898
Registered 25-98

Enclosures 4. one of which C. No. 470
net with 2 endos.

Spare copies

SUBJECT.

Report on Govt. end. No. 966 d/22
April 1898 "Poll" and considers not
to alter the present arrangement
regarding retransfer of the allow.
of the Tomb of Karim-ulla Shah,
in the name of petitioner.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

* Herewith returned.

Current No 624

No 167 of 1898. (14) Paymaster Carnatic Stipends
Office Chepak 29th April 1898.

From Lt. Colonel D. D. Pryce I. S. C.
Paymaster Carnatic Stipends
Chepak

To, The Chief Secretary to Government
Fort St. George.

Sir,

With reference to your indorsement No 966 dated 22nd April 1898 "Political", on petition current No 470 from Muhamamad Ghans, I have the honour to state that petitioner prays the petransfer of the Geo-
-innah allowance of Rs 24-9-4. per mensem in his name, on the strength of a "Probate" granted to him by the High Court of Judicature on the 20th November 1897.
The above allowance was granted to Muham-
-ammad Nur-nd-din (petitioner's brother) by G.O. No 227 dated 3rd February 1872 "Revenue" on the condition of the tomb of Shah Karim-ulla situated in Mylapore being repaired and services performed. Muham-
-mad Nur-nd-din submitted a petition to the late Colonel Baynes the then Government Agent at Chepak on the 7th November 1881 (herewith enclosed and requested to be returned) in which no mention is made of any will, but he simply requested the transfer of the pension in his brother's (petitioner's) name as he was very ill at the time. Muham-
-mad ^{Nur-nd-din} died in March 1882.

G. [G.]
25
1,000 22-11-07.

C. 16.5.98
Rt: 18.5.98 (17)

Political DEPARTMENT

C. No. 470, 556 and 624

SUBJECT.

HIS EXCELLENCY THE GOVERNOR.

~~THE HONBLE SIR HENRY BLISS, K.C.I.E.~~

~~THE HONBLE MR. GROSE, C.I.E.~~

Ceremonial Allowances

FOR ORDERS.

*Rs 24-9-4
per mensem*

In G.O.No.227 Rev. d/ 3rd February 1872, the Govt. sanctioned the continuance to ^{Muhammad} Nur-ud-din of an allowance of Rs.295 per annum, drawn by his father for services performed at the tomb of Shah Karim-ulla at St. Thomé, subject to the condition that the tomb be kept in proper repair and ^{that} the services be duly performed. In 1881 Muhammad Nur-ud-din requested that this allowance might be transferred to his younger brother Muhammad ^{as} Ghouse in consequence of ^{his own} ~~former's~~ inability through ill health to perform the necessary services at the tomb. The arrangement was, on the recommendation of the Govt. Agent, Chepak, sanctioned as a temporary measure till Muhammad Nur-ud-din's son attained his majority when the question of his mental fitness to discharge the conditions of the grant could be decided. ~~Accordingly~~ in 1896 the Paymaster Carnatic Stipends forwarded a petition

*G.O. No. 566 Pl.,
d 12-2-91.*

*G.O. No. 323 Pl.,
d 23-May-96.*

(18)
petition from Muhammad Nizam-ud-din, the son of Muhammad Nur-ud-din, praying that the allowance temporarily drawn by his uncle might be transferred to him. The Medical Officer having certified that he was of a sound mind, the transfer of the allowance in the name of Muhammad Nizam-ud-din was sanctioned in G.O.No.323 Pol. d/ 23rd May 1896.

2. It is against this order that Muhammad ~~Ghaus~~ Ghaus Sahib, the petitioner, now appeals. His chief contention is that his brother, the late Muhammad Nur-ud-din, by his last will and testament, constituted the petitioner Muthuvalli of the Karim-ulla- Shah Durga and its endowments and that the High Court has granted him a probate of the will. The fact that the High Court has granted a probate can only go to show that the will has been proved and that the petitioner has been recognized as the legal representative of the deceased, but it does not establish the right of the deceased to bequeath what was not his own. Moreover the allowance which the deceased drew was not personal, but was attached to the tomb on condition that it was kept in proper repair and the services were duly performed.

3. The petitioner first addressed Govt. in December last and was given para II of the C Petition rules. He then applied to the Paymaster and received the endorsement flagged E in which the petitioner was informed that the allowance having been permanently transferred in the name

Vide translation
flagged H in G.O.
No. 91 Pol. d/ 4/2/98. G

G.O. No. 91 Pol. d/ 4 Feb 1898. G

(19)
name of Muhammad Nizam-ud-din his prayer for its retransfer was inadmissible. As however the Paymaster made no reference to the will in his report disposed of by G.O.No.323 Pol. d/ 23rd May 1896, nor to the "material records" establishing the petitioner's claim to the Mutavalliship alleged to exist in the Paymaster's Office in para 5 of the memorial, ~~it is submitted that~~ the views of the Paymaster, Carnatic Stipends, ~~should be first~~ ^{have been} obtained ~~before a decision is arrived at in the case.~~ These are contained

M. in C. No. 624. After reciting the history of the case, the Paymaster points out (para 5 of the Current) that the grant of probate cannot affect the continuance of what was not the property of the deceased, and in support of the contention that persons cannot be bequeathed ^{will} ~~quote~~ a ruling of ¹⁸¹¹ ~~1811~~ (S. M.C. of 10. December 1811). He further reports that the tomb is kept in proper order by the present holder of the allowance and ^{that} the services are efficiently

18/4/98

1210

Performed

4. There can, it is submitted,
be no question as to the
will inability of the
late Muhammad Nuh-ud-
-din to ^{bequeath} ~~devise~~ any interest
he might have had in the
pension attached to the
up-keep of the tomb, and
the following order is submitted
for approval:—

Order No 340, 8 19 May 1898
this

The Govt. declines to
accede to the request of the
petitioner

Comb. 13.5.98
MA 14.5.98

Petitioner (9 of this petn 5 of PCs: upl)
PCs (9 of all) with an order dated 28/5/98
Desp 25/5/98

Copied 21/5
+ 23/5

When given for copying 24/5
When copied 24/5
When examined 23/5
When signed 23/5/98 1898

AGAIN G.O., No. , DATED
189

RENT No.

ENCLOSURES TO G. No

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BRING WANT FOR DESPATCH
IN ORIGINAL.

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