M.R.O. 14—10,000—21-4-22.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1773 Press ~~Mis.~~

79-80

Dated 24 — 12 — 1859.

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Revenue Department, for the month of December* 1859.

No. 79. Read the following Proceedings of the Madras Government in the Political Department, dated 5th December 1859, No. 705.

*Passing orders respecting the disposal of the property of the late Rájá of Tanjúr and the assignment of pensions to his relations &c., and directing that alienations from the landed property, which are of the nature of Inám, be dealt with by the Inám Commissioner under the rules prescribed for the settlement of property of this description.*

(Vide Political Proceedings from 1st to 10th December 1859, Nos. 9 to 20.)

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No. 80. ORDER THEREON, 24th December 1859, No. 1773.

Ordered to be communicated to the Board of Revenue for information.

(Signed) J. D. BOURDILLON.
*Secretary to Government.*

*PROCEEDINGS of the MADRAS GOVERNMENT.*

Read the following papers:

From the Commissioner of Tanjore.

(Here enter 25th November 1856, No. 658.)

From the Commissioner of Tanjore.

(Here enter 8th June 1857, No. 180.)

From the Commissioner of Tanjore.

(Here enter 11th July 1857, No. 661.)

From the Honorable Company's Solicitor.

(Here enter 1st February 1858, No. 81.)

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the East India Company, *versus* Kámákshi Bháí Sáhiba, from the Decree of the Supreme Court of Judicature at Madras. } Delivered on the 27th day of July 1859.

ORDER THEREON, 5th ~~November~~ December 1859, No. 705.

The Lords of the Committee of the Privy Council conclude their Judgment on the Appeal of the "East India Company *versus* Kámákshi Bháí Sáhiba," as follows:—

"The result in their Lordships' opinion, is, that the property now claimed by the Respond-"ent has been seized by the British Government, acting as a Sovereign power, through its "delegate the East India Company; and that the act so done, with its consequences, is an act "of State over which the Supreme Court of Madras has no jurisdiction."

2. The effect of this Judgment has been to reverse the decision passed by the Supreme Court at Madras, to cancel their Injunction, and to leave this Government at liberty, without further interference, on their part, to carry out those arrangements and inquiries which, under the orders of the Government of India, they were conducting, when they were checked by the interposition of the Supreme Court.

3. The chief questions now to be dealt with are:—

1st. The disposal of the property of the late Rájá, moveable and immoveable.

2nd. The settlement of the Rájá's debts.

3rd. The assignment of pensions to the several members of his family, and to his relations and connections, and the measures to be adopted for their future comfort and accommodation.

4. In respect to the first of the above questions, much discussion has taken place about what ought to be considered public or private property. This seems to proceed upon a mistaken view of the nature of the case. The Ráj has merged in the Government of India. Every thing which belonged to the late Rájá at the time of his death, therefore, now belongs, by right, to the Government. If, previously to his decease, he made a *bonâ fide* alienation of any property acquired out of his savings, that property has passed into the condition of private property. Otherwise, all that he left would have descended to his Heir, if he had had one; and, not having had one, it has lapsed to the paramount authority representing the General Public. The Government have to pay the late Rájá's debts, and to provide for his numerous relations and dependents, as *Ultimus Hæres*.

5. The moveable property of the Rájá, as the Jewels, Library, Armoury, &c., were being examined and catalogued by the late Commissioner, Mr. Henry Forbes, and much progress had been made in the work when it was stopped under the Injunction issued by the Supreme Court.

The apartments containing these several descriptions of property have since been closed. They will now be opened, and a careful examination and report made of their contents with a comparison with the lists already taken. This property was also entered in the Schedules which were appended to the Government answer to the bill filed by Kámákshi Bhái Sáhiba. The copies of these Schedules, now with the Government Solicitor, will be made over to the gentleman who is to be deputed to Tanjore as Commissioner for the settlement of this and other questions. Any property not already taken into account will be duly examined and lists made of it.

6. While all such articles as were exclusively State property should be held at the disposal of the Government, the most liberal consideration should be given to any claim that may be made on behalf of the Ránís, or others connected with the late Rájá. It will be the duty of the Commissioner to make these orders generally known, and to submit to Government all applications which may consequently be made to him, with his own opinion upon them.

7. With regard to the landed property of the late Prince, the Government have before them two reports, one a preliminary report by Mr. Forbes, under date 26th November 1856, and the second a more detailed one from Mr. H. D. Phillips of the 11th July 1857. They have likewise the opinion* of their Advocate General, to whom the above reports were referred in consequence of a claim to several villages and gardens preferred by the Ávu Sáhibá.

*30*th *January* 1858, *in letter from Government Solicitor,* 1*st February* 1858.

8. The bulk of this landed property was retained by the Rájá, contrary to the provisions of the treaty by which the province was ceded to the East India Company in 1799, but according to the views already expressed by Government, it matters not in what manner property came into the possession of the Ráj. Whatever actually belonged to the Rájá at the time of his death is included in the escheat, and now belongs to the Government.

*Supra Paragraph* 4.

9. Fourteen villages are claimed on behalf of the mother of the late Rájá, as having been granted to her by her late husband Rája Sarabhoji. Such a grant is undoubtedly extant; but if her possession was ever more than nominal, it altogether ceased in 1827, after which the Rájá dealt with the property entirely as his own. The Advocate General is therefore rightly of opinion that these villages must be considered as belonging to the Ráj. Mr. Phillips, while he admits that the Dowager Rání has no just claim, proposes that she should have the enjoyment of these villages during the remainder of her life. Government do not concur in this. The aged lady should have a pension allowed her, sufficiently liberal to enable her to spend the remainder of her days with all possible ease and comfort; but more than this is not required; and it is not desirable that she should have the management of villages. There are three villages, the Mírási rights in which were originally purchased by the widow of Tulasíjí the adoptive father of Sarabhójí. They descended to the late mother of the Rájá's only surviving daughter, to whom they should be made over, together with the arrears which have accumulated since her father's death. Alienations from the landed property, which are of the nature of Inám, should be dealt with hereafter by the Inám Commissioner under the rules which have been prescribed for the settlement of property of this description.

*Mr. Phillips' report,* 11*th July* 1857, *paragraphs* 47 *and* 48.

10. The remaining lands consisting of 34 villages, 115 gardens, 52 padugais and one muhtarafa village, will, as recommended by Mr. Phillips, be henceforth regarded as belonging to the State. The arrears which have accrued in a long series of years, and are represented to be quite irrecoverable will be written off, and any amount that there may be in deposit carried to the credit of the general revenue.

*Ibid, paragraph* 51.

*Paragraph* 40.

*Debts.*

11. The only mention that has been made of the Rájá's debts occurs in a letter from Mr. Forbes of the 15th January 1857, No. 102. The information given is only of a general character. These debts must now be accurately ascertained in view to their early liquidation. Experience shows that more than ordinary care should be taken to shut out fictitious claims.

12. The subject of pensions to the immediate family and relatives of the Rájá has been reported on by Mr. Phillips under date 8th June 1857. He submitted three lists:

A. List of the immediate members of the family of Sivají late Rájá of Tanjore, with the money, grain, &c., allowances as paid at the date of the Rájá's demise, 29th October 1855. There are 103 pensioners, and the aggregate amount of the stipends proposed for them is Rupees 3,18,965 per annum, with Rupees 6,000 additional to the Rájá's daughter, after her marriage.

B. List of the relatives of His late Highness. This includes 164 persons for pension, at an aggregate charge of Rupees 3,362-8 monthly or Rupees 40,350 yearly.

C. List of the relatives of Rájá Sivají, who demised subsequently to the death of the Rájá himself. There are 10, and the total amount which it is proposed to assign to their heirs is Rupees 399½ per mensem, or Rupees 4,794 per annum. Thus, the aggregate amount of all the pensions entered in the three Lists will be Rupees 3,70,109 yearly.

13. The Government observe that the principles which are to govern the assignment of pensions to the members of the family of the late Rájá of Tanjore and to his relations, and their continuance, when they are continued on lapse, are fully laid down in Mr. Secretary Edmonstone's letter of 8th September 1856, paragraphs 10 and 14. These principles are generally, that no person of the Rájá's family be placed in a worse condition so far as stipend can secure this, than heretofore—that the pensions to the chief members of the family only shall be heritable—that in the case of a man they may pass on for two generations, a moiety lapsing on each sucession; in the case of a woman, they are to descend with a like reduction for *one* generation only. The case of those relations who are not nearly allied to the late Rájá was considered to be fully met by the grant of a pension for a single life, which might be commuted into a gratuity.

14. The persons who are included by Mr. Phillips in his List A., of the immediate family, are:

1. The mother of the late Rájá.
2. His senior widow.
3. His fifteen junior widows.
4. His daughter.
5. His two elder sisters.
6. His neice—her husband and children.
7. His son-in-law.
8. Three nephews and their families.
9. The late Rájá Sivají's Seraglio, in number 59 persons; including apparently, 6 natural sons and 11 natural daughters of the Rájá.
10. The Rájá Sarabhójí's Seraglio, 18 persons.
11. The descendants, four in number, of Tukují Sáhib, a former Rájá of Tanjore.

15. The claims of the first 8 of the above to heritable pensions may be admitted, and the same advantage may be conceded to the natural sons and daughters of the late Rájá—but it cannot be extended to the members of Sivají's or of his father Sarabhójí's Seraglio, nor to persons claiming through a former Rájá. The allowances to all these, as well as to all included in list B. will be for life only. It should be distinctly explained to them that their pensions will on no account be continued on lapse, wholly or in part. Subject to this condition the several proposals made by Mr. Phillips in the Appendix to his report, touching the provision for the Seraglios of the Rájá's Sivají and Sarabhójí are approved.

16. As respects those borne in list C, the relationship of none of the deceased parties is such as to warrant the transmission of any portion of their allowances to their heirs, but considering the short time that they survived the Rájá, and if the heirs named have been led to look for the continuance of a part of the pension, the Government will allow so much to be granted as will prevent their being in actual distress, and the same indulgence may be shown as regards the heirs of any others who may have demised since the date of the report and before the final settle-

ment of these pensions—but it is clearly to be understood that this will not be done in any other cases when the pensions have been once settled. The settlement will be final, and all payments, except to the immediate members already enumerated, cease absolutely on lapse.

*Paragraph* 14.

17. In his appendix, Mr. Phillips has noticed certain considerations which have influenced him in determining the rates of pensions to the immediate family, and has made some suggestions in respect to their treatment.

18. It is proposed that an allowance of 700 Rupees a month be granted to Kámákshi Bháí Sáhiba, the senior widow, and to each of the 11 junior widows who sided with her, and that the four who adhered to Government should, as a reward, have each 100 Rupees a month more.

19. Reference has been made by Government to the authorities in Bombay to ascertain whether under the Maráthi customs the senior widow should not have a larger provision made for her than junior widows. From the replies which have been received, it appears that although, in some localities, the elder widow, by priority of nuptials, does receive more than the junior ones, yet that the rule is not universal, and that, in fact, there is no general rule on the point; nevertheless, considering all the circumstances of the case, the Government think that the stipend to be assigned to Kámákshi Bháí should be larger than those which are to be allotted to the junior widows. They would fix it at Rupees 1,000 per mensem.

20. The Government would not be disposed to make any distinction between those widows who sided with the senior widow and those who took no part in the opposition. All should be treated alike, and draw, subject to the general instruction to be given subsequently,—paragraph 24,—Rupees 800 per mensem.

21. The Government however quite agree with the late Commissioner that inducement should be held out to the junior widows to return to the Maráthi country and that for that end the stipends to be assigned them should be enhanced by Rupees 100 per mensem in the event of their returning to their Native Province—that their travelling expenses should be paid—a fitting escort provided—and the sum of 500 Rupees given to each of them for the purchase of a house.

22. Sukharám, the late Rájá's son-in-law, ought not to be subjected to any deduction of his stipend, on account of his inheriting his late wife's settlement, and the Rájá's only surviving legitimate daughter should be allowed an additional 6,000 Rupees a year on her marriage, as proposed by Mr. Phillips.

23. It is stated by Mr. Phillips that the stipends borne in these lists have been fixed strictly on the principles prescribed by the Supreme Government. "The value of the allowances, as exhibited in the appropriate columns of the Statements, comprises the amounts in ready money allotted to the members of his family and relatives by the late Rájá; and the estimated worth of the contributions in cloths and grain, together with that of certain other privileges under which they received supplies from certain Departments of the Palace." The aggregate of these sums has formed the basis on which he has fixed the stipend now proposed for continuance to them individually.

24. The pensions once fixed will be in full of *every personal claim;* no establishment will be kept up for any one; and the old system of procuring supplies through the Collector, if any vestige of it remains, will come to an end. Any additional allowance should be made which may be required to compensate for the loss of these advantages; and the Agent should continue to protect the interests of the ladies and assist them by his advice. There is no reason to doubt the correctness of the data upon which Mr. Phillips has calculated the pensions proposed by him for the several classes of claimants; but on the principle above indicated, some modification may be required in the cases of particular members of the immediate family, and any proposals to that effect will be readily considered by Government. The pensions to the relatives, &c., are approved and should be given at once. The Government would be glad to receive the opinion of the Commissioner as to the arrangements which should hereafter be made for the disbursement and check of these pensions as well as of those paid to the three minor establishments.

25. It remains to determine by what Agency the settlement of these important questions is to be accomplished. It is evident that it cannot be imposed upon the Collector in addition to his own many and heavy duties. Under these circumstances, the Government have resolved to depute to Tanjore, as Commissioner, Mr. H. D. Phillips, Puisne Judge of the Court of Sadr and Faujdári Adálat, who has already acted in that capacity, and has an intimate acquaintance with the affairs of the family and of the Darbár—and with the various questions discussed in these Proceedings. A copy of these Proceedings and of the Minute recorded by the Honorable the President* will be furnished to Mr. Phillips.

* *8th November* 1859.

26. Mr. Phillips will exercise full control over the Palace establishment and Palace arrangements, internal and external. He will state what establishment, if any, he will require to aid him in the performance of his duties beyond that now at Tanjore—and will suggest to Government any arrangements which he may deem calculated to facilitate his operations. He will draw whilst employed as Commissioner a deputation allowance of (Rupees 500) five hundred Rupees a month, in full of all personal expences.

27. The Collector and Agent at Tanjore will place at Mr. Phillips' disposal the Tanjore Residency, will afford him the services of any of his establishment whom he may require, and will assist him in every way in the execution of the important business committed to him.

28. Mr. Phillips will report from time to time for the information of Government what progress he is making in the duties of the Commission.

29. The Government would further wish Mr. Phillips to ascertain and report whether suitable accommodation could be provided at Tanjore for the Huzúr Kachahrí, Court House, Treasury, &c., in the event of its being thought desirable to fix that Station as the Collector's Head Quarters and Station of the Zila Court.

(True Extract.)

*Chief Secretary.*

To Mr. H. D. Phillips.
,, the Collector and Agent at Tanjore.
,, ,, Revenue Department.
Paragraph 5, to the Government Solicitor.
,, 25 and 26, to the Civil Auditor.

10/1/55

26-10-55 Pub

No 79 & 80.

Revenue 1859 Dep.t
Pro: of Govt. 31st Dec.r

No 2397

Proceedings of the Madras Govt. in the Political Dep.t

Dated 5th
Rec.d 20th } December 1859

No 1773. 24th Dec.r 59.

Passing orders respecting the disposal of the property of the late Raja of Tanjore and the assignment of Pensions to his relations &c.a and directing that alienations from the landed property, which are of the nature of Inam, be dealt with by the Inam Commissioner under the rules prescribed for the settlement of property of this discription.

From Lt.t Col.l Cullen 8/12 Mad.s 6/12 Cm 488

W Saunders

No 1773.

Ordered to be communicated to the Board of Revenue for information.

Fort St.t Geo.e
24th Dec.r 1859.

Copy to the Rev.e Office
Disp.d 24th
" Inam Com.rs 3.