

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	531	Press Mis.
Dated	19.4.	1859.

Not to be folded or roughly handled

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Fort Saint George, Revenue Consultation of 19th April 1859.

No. 17. Read the following letter from CLEMENT DALE, Esq., Government Pleader Sudr Udalt; to J. D. BOURDILLON, Esq., Secretary to Government dated Madras 15th March 1859, No. 40.

SIR,

Para. 1. With reference to the Extract from the Minutes of Consultation noted in the margin, I do myself the honor of reporting for the information of the Right Honorable the Governor in Council, that I have perused the several papers which accompanied those Minutes.

2. From them I collect the following as the facts of the case, 1st that the Jajhire and Jameedary Enam referred to, were granted by the British Government to Chinthapah the Poligar Foujdar in 1806. 2d. That Chinthapah was a member of an undivided family, having one brother Ramapah, but no other relative. 3d. That on the death of Chinthapah the Jaghire, &c., descended to his only son Shinapah. 4th. That on his death the Jaghire descended to his only son Chinthapah. 5th. That he has lately died without any issue natural or adopted. 6th. That he has left 2 widows. 7th. That since the grant in 1806 no separation in the family has taken place. 8th. That Ramapah the brother of the original grantee is deceased, and 9th. That he Ramapah had one son only named Ruggapah, who is still alive.

3. I conclude that the "2 male relations" referred to in the Tabular Report are Ruggapah and Ramapah Nos. 6 and 8 in the Pedigree thereto appended. If I be in error in that conclusion, I should wish to be informed of the Degree of relationship they bear to the last possessor.

4. The question referred to me is "on the right of the widows to succeed to the Jaghire," and I have the honor to report to the Right Honorable the Governor in Council as my opinion that assuming the facts to be as mentioned in para. 2, the widows have not, nor has either of them, any right to succeed.

5. Although the question is not referred to me, it may be convenient I should state, that in my opinion according to Hindu Law (on the assumption that the facts mentioned in para. 2 are correctly stated) Ruggapah is entitled to succeed.

6. I am aware that texts may be quoted from Hindu Law books to support the claim of the elder widow, but I feel no hesitation in saying that those texts are applicable only in the case of a deceased husband, being at the time of his death, separated from all other male members of his family.

7. I return the several papers which accompanied the Minutes of Consultation noted above.

No. 18. ORDER THEREON, No. 532; dated 14th April 1859.

1. In the letter recorded above, the Government Pleader in reply to a reference made on the 4th February 1857 reports his opinion on a question of succession to certain hereditary rent free grants, held in the family of the late Foujdar to the Poligar of Hurponhully in the District of Bellary.

2. The Board of Revenue laid the case before Government in their Proceedings of the 7th January 1857, No. 90, submitting a tabular Statement of the lapse, with letters from the Collector of Bellary and other papers bearing on the case. The lands enjoyed by the deceased holder were as follow: the village of Khoordagudda in the Koodligee talook held in Jaghire, and bearing a nominal assessment of 1,057 Rupees, a Jameedary Enam in Hospett assessed at Rupees 354-2-2, and four Bhutvurty Enams assessed at Rupees 100-15-10, besides Potal and Curnum Enams bearing an assessment of Rupees 727-13-4, but paying a Jodee of 362 Rupees. The Jaghire and Jameedary Enam were originally granted in 1806 under a Sanad of the Governor in Council to Chintapah, the Foujdar or one of the principal servants of the Poligar, having been alienated in consequence of misunderstandings between the latter and his servants from his own Jaghire which the British Government had conferred on him for good conduct. Chintapah the last holder was the grandson of Chintapah the original grantee; and he died on the 27th July 1855, leaving no issue. He however left behind him two widows and three male relatives on his

a tabular statement of the case

Fort Saint George, Revenue Consultation of 19th April 1859.

father's side, viz. Ruggapah his cousin once removed, and that cousin's son and grandson, the latter a boy at that time about six years old, whom the deceased Chintapah is said to have fostered from infancy with the intention of adopting him. That he did not adopt him is perhaps due, as the Collector surmises, to the hope he entertained of having issue himself; but it seems to be clear that no actual adoption was ever made. The Collector would recognize the intended adoption, and accordingly is in favor of continuing the Jaghire and Enams to the boy Mahadavapah; but the Board being of opinion that an intention to adopt possesses no legal validity, consider the widows to have the preferential claim to succeed to the property.

3. The opinion of the Government Pleader is different. Assuming that Chintapah the original grantee and his brother Ramapah were undivided brothers, and that no division of the family subsequently took place, Mr. Dale concludes that according to Hindoo Law, Ruggapah son of Ramapah and cousin to the last holder once removed, is entitled to succeed to the grants in question, and that the widows have no right to do so.

4. The Government have given careful consideration to the case, and they are unable to agree with Mr. Dale. They are of opinion that he has erred in treating the Jaghire and Enam as ancestral property; for the property was self acquired by the original grantee, and as such is in no way affected by the circumstances of Chintapah having been a member of an undivided family. As to the claims of the boy Mahadavapah, they would have been good according to Hindoo Law had he been adopted; but as no adoption ever took place he has no claim. The Governor in Council is of opinion that the two widows are the rightful heirs; and they will therefore be put in possession of the Jaghire and Enams together with the mesne profits.

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

No 332

Extract from the Memo of Consultation
under dated the 14th April 1859.

Read again Extract
from the Proceedings of the
Board of Rev. dated 7th Jan'y
and recorded in Dy Colms
8th Feb'y/59 p 35.

Read also the follow-
ing letter from the Govt
Pleader.

(Where enter 15th March/59 p 40)

In the letter recorded
above the Govt Pleader ^{in reply} after the
to a reference made on the 4th Feb'y/59
Lapse of ~~two years~~ reports his opi-
nion on a question of succession
to certain hereditary rent free
grants, held in the family of the
late Fozdar to the Poligar of
Korponhully in the District of
Bellary.

2 The Board of Revenue
laid the case before Govt in their
Proceedings of the 7th January/59
N. 90. On that date they submitted
a tabular Statement of the cases

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A. G.
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with letters from the Colr of
Bellary and other papers bearing
on the case. The ^{lands enjoyed by the} ~~granted~~ ~~holder~~ were as follows
of a Jaghire of the village of Khorr.
Dagudda in the Koodlije talook
held in Jaghire, and bearing a nominal apportionment of
~~apportioned~~ at 1057 Rs, of a Jamnedary
Enam in Kospett apportioned at Rs
354. 2. 2, and four Bhutvurky
Enams apportioned at Rs. 100. 15. 10, be.
Sides Potail & Furum Enams
bearing an apportionment of Rs. 727. 13. 4,
but paying a Jodee of 362 Rs. ~~These~~
~~The Jaghire & Jamnedary Enam~~
were originally granted in 1806
under a Sannud of the Gov^r in
Council to Chintapah, the Foj-
dar or one of the principal ser-
vants of the Poligar, having been
alienated in consequence of mis-
understandings between the latter
and his ~~servants~~ ^{servants}, from his own
Jaghire which the British Gov^t
had conferred on him for his ^{good} ~~services~~.
~~his subservience to them in 1799.~~
Chintapah the last holder was
the grandson of Chintapah the

original grantee; and he died on
the 27th July, 1855, leaving no issue.
He ~~has~~ however left behind him
two widows and three male rela-
tives on his father's side, viz. Pug-
gappa his cousin once removed,
and that cousin's son and grandson,
the latter a boy at that time about
six years old, whom the deceased
Chintappa is said to have fostered
from infancy with the intention
of adopting him. That he did not
adopt him is perhaps due, as
the Colr surmises, to the hope he
entertained of ^{having} ~~forgetting~~ ^{upon} himself.
The Colr would recognize the intended
adoption, and accordingly is in
favor of continuing the Inheritance
to the boy Mahadappa,
~~the object of the intended adoption,~~
but the Board, ^{being} of opinion that
an intention to adopt possesses
no legal validity, consider the
widows to have the preferential
claim to succeed to the property.

but it seems to be clear that
no legal adoption was
made.

On the 4th Feb 57, the
Govt Pleader was called upon to
give his opinion on this case. He
was reminded of this on the 7th
Dec 58, and again on the 26th
Jan 59. Mr Dale now reports.

Assuming that Chintapah the
original grantee and his brother
Ramapah were undivided brothers,
and that no division of the family
subsequently took place, Mr
Dale concludes that according
to Hindoo Law, Ruggapah son
of Ramapah and cousin to the
last holder once removed, is entitled
to succeed to the grants in question,
and that the widows have no right
to do so.

Having referred to the
circumstances under which the
grants were originally conferred on
the Rajdase Chintapah, the Govt
are convinced that this opinion
of Mr Dale is incorrect. He has
erred in treating the Rajdase & Ram

3 The opinion of the Govern
Pleader
ment is different.

Pleader?

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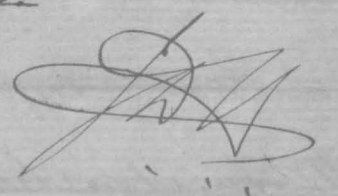
14 The Government have
given careful consideration to
the case and they are unable to
agree with Mr Dale. They
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he has no claim. The Governor in Council is of opinion that

the two widows are the rightful heirs; and ^{they} will therefore be put in possession of the jaghire and together with the ~~me and profits~~ ^{me and profits} ~~income~~. The question who is to succeed to the property on the demise of the widows ^{does} ~~is not~~ ^{require} ~~matter for~~ ^{at} the decision on the present occasion.



- 1 Copy to the Govt & Revenue Deptt
- 2 " " " " " " " " " " " "
- 3 " " " " " " " " " " " "
- 4 " " " " " " " " " " " "

Cover: 6th February 1859
" 7th " " " 1859 - 41 -
" 1st " " " 1859 - 11 - 12 -

Revenue 1859 Sept 1st
20 to 25: 19th April

No. 532.

Contracted with of Ave:
21st April 1859.

From Government Register of Ave. 21st
21st April 1859 & 1859 25th
Cover: 10 May

The two widows of the
Englishman Churchyard to
be put for reasons stated
in possession of the Avenue
and Avenue together with
the several profits in
Beltway.

1877 + 18.