M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1102 — Press / Mis.

343-344

Dated 19 — 5 — 1862.

Not to be folded or roughly handled

No. 343. Read the following letter from G. N. TAYLOR, Esq., Inám Commissioner, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Vellore, 26th April 1862, No. 23:—

SIR,

1. I have the honor to acknowledge the receipt of the Order* of Government, dated 13th March 1862, No. 565, desiring me, with reference to the Memorial of Jeya Ráu one of the holders of the Jághir of Itimárpur, &c., in the Cuddapah District, to report what is the custom of the country in regard to succession to such Jághirs.

* With 10 enclosures herewith returned.

2. The right of primogeniture claimed by the Memorialist is recognized, at the present day, solely and exclusively as regards the ancient Zamíndáris and Pálayams. This right does not appear to be derived from any principle of Hindu Law, but was inherent in the sovereign power (Ráj) enjoyed by the holders of these territorial tenures and which would have been destroyed by division. Such tenures were always considered, in consequence, to be indivisible, the succession naturally vested in the eldest or best qualified son, and thus a special usage contrary to the ordinary Hindu Law of inheritance came to be recognized in regard to them.

See on this subject, III Revenue Appendix No. 6 to the Report from Select Committee of 1833, page 30 of Selections. Mr. Campbell's paper on the Land Revenue of India.
See also remarks of Mr. Ellis and Mr. Thackeray at page 262 and 300, Volume II of Strange's Hindu Law.

3. On similar grounds of policy former Governments exercised a greater or less control over succession to Jághirs; which were generally grants made to relations of the ruling families, or their public servants, held in fief and considered to be more peculiarly dependent on the pleasure of the Government than ordinary Shrotriyam and other subsistence grants. Under the British Government, however, both descriptions of tenure have been treated strictly as private property, and succession has been allowed to be governed by the ordinary law of the holders. Sir Thomas Strange in his work on Hindu Law observes, with reference to succession to Jághirs and Shrotriyams, that "unless obviated by the "terms of the grant, importing a particular limitation, the law "must prevail." Few Jághir grants contain express provisions as to the course for the transmission of the estate in the family of the grantee. The usual terms, as in the case under notice, are "to the grantee and his heirs." It would nevertheless be competent to the Government, as I conceive, to declare, with reference to the practice of former Governments, what the rule of succession ought to be in all those cases in which the object of the grant is to reward individual meritorious services to the State, an object which can scarcely be fulfilled if the grant be considered as ancestral property, and consequently becomes subject to endless division. Although the Government might have done this, especially as Regulation IV of 1831 has removed these matters from the cognizance of the Courts, it has waived all interference, and has allowed succession in all such cases to be regulated by the law of the grantees; which, as regards Hindus, provides for the equal division and enjoyment of the property amongst all the heirs.

Chapter VIII, Volume I, page 186.
See also page 211 on partition of Estates.

4. Under the circumstances above stated the inheritance to Jáhgirs, as well as to other rent free tenures, has invariably devolved upon all the sons of the grantee and not on the eldest son exclusively. The Jáhgir of Arani referred to by the Memorialist is an ancient territorial tenure of the exceptional class mentioned in paragraph 2. A case more analogous to that of the Petitioner is the hereditary Jáhgir of Pulemati in Bellary conferred on the family of the Board's Head Sheristádár Rámachendra Ráu, which is enjoyed by all the descendants of the grantee, and has been registered in their joint names without any objection. The Jáhgir of Nílakantlapuram in North Arcot has not yet come before me for settlement, neither is the Order of the Home Government mentioned by the Memorialist among my records. The latter document can be referred to by the Government; but I presume that the question in that case was the right of collaterals and not of the descendants of the grantee.

5. It is worthy of remark that in paragraph 10 of the Memorialist's former address to Government, No. 369 of 1860, he does not so much insist upon his exclusive right to the Jáhgir,

as upon his right to its exclusive management, which would involve the rendering to the other descendants of the grantee their full share of the profits, and not a mere allowance. The registration made by this Department being a registration of rights, the question of management is rarely disputed or discussed in the cases that come before me. The appended Extract from the Register of the Petitioner's Jáhgir will show how this particular case was disposed of. In an Order dated 26th August 1848, No. 907, published at page 282 of the Board's Circular Orders, Volume I, the Government recommend that the registry of a Nattawár Shrotriyam, which like Jáhgirs are State grants made to the families of public servants, should be made in the name of the eldest son, in order thereby to "obviate minute sub-divisions of the Shrotriyam, which was "evidently intended to be continued and enjoyed as a whole by the heirs of the original grantee." But I do not find that this course has been usually followed; and it will be observed at page 42 of the Board's Circular Orders of 1852, that in another case of a similar grant, the Board of Revenue allowed the registration in the names of all the heirs, though all transactions with the Collector were to be confined to the head of the family.

6. So long as the Hindu Law of inheritance by equal division obtains in regard to these estates, it seems undesirable to attempt any restriction of the right of subordinate sharers by the registry of the head member alone and by his nomination to the exclusive management. The fairness of such management will be always impeached; it leads to endless disputes and litigation among the sharers, and greatly depreciates the value of the property. If all are entitled to shares according to law, it seems better, for all purposes, that each share should be free and unrestricted and managed by its real owner, the annual dues of Government being paid jointly. There are numerous Shrotriyams and other rent free or favorably assessed villages which are so held in divided property without any inconvenience, and the revenue due to Government is paid jointly by the holders. All that is required to place these properties in a perfect condition, is the preparation of a few simple rules under the authority of Government, defining the separate right and joint responsibility of the several sharers.

7. The time seems to have gone by when Hindu families were content to remain, for generations together, in the undivided enjoyment of their ancestral property. A spirit of independence has grown up with the general progress of the country, and a state of division is naturally preferred and has become the general rule. No doubt the law of equal partition, however well suited to a former condition of society, or as expressed by Sir Thomas Strange however "consonant to the "orignal law and agreeable to nature," is becoming, as time advances, a serious evil. But this evil cannot, it appears to me, be effectually prevented by such restrictions upon existing rights of property as above noticed. The remedy should be of a more complete character. I submit that what is wanted is a law of entail, unfettered by the immunities and restrictions which formerly obtained in England, and affecting not only future grants, but enabling present holders of Jághirs and other considerable estates of similar character to entail their property at their option; and supplemented by a law, as regards other descriptions of property, enabling the Hindu to devise by will under certain limits. I feel assured that these measures will find favor and acceptance with the people at the present day. It is true that Sir Thomas Munro attempted more than thirty years ago, but without success, to effect an arrangement with the ancient Zamíndárs similar to entail, but the failure of that measure is ascribed by Mr. Campbell to the restrictions which it involved and the limitations it imposed. The remarks on this subject, and a Note from Sir Thomas Munro's Minute, dated 19th September 1830, are to be found in Appendix to report from the Select Committee of 1833, No. 6 and 110, published at pages 39 and 758.

Extract from the Register of the Tax free Jághirs of Himárpur and Mekenempalli in the Táluq of Rajampetta in the District of Cuddapah.

Decision of the Commissioner.

The Jághirs are confirmed on their present hereditary tenure free of tax to the surving heirs of the original grantee.

The Jághirdar to whom the grant was made by the British Government as a reward for his meritorious political services died in 1818 and left three sons. On his death, the Jághir was continued to his sons by the then Collector Mr. Hanbury, the eldest son Runga Ráu managing

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19th May 1862.

the estate on behalf of the family. Ranga Rau died in 1844, leaving one son Jaya Ráu. After his death, Jaya Ráu being still a minor, the management vested in the second son of the original grantee Hanumanta Ráu on behalf of the others; the village being in the joint enjoyment of all the heirs.

Jaya Ráu the son of the original grantee's eldest son, claims the exclusive management of the Jághir to the prejudice of his uncle the grantee's second son, and of his cousin the son of the grantee's third son, who are the only other heirs. But as the joint enjoyment of the family and the management by Hanumanta Ráu have been upheld by successive Collectors, and confirmed by the Board of Revenue, this Department cannot disturb the present state of things, and the village sanads are confirmed in the joint names of the three heirs. The succession to hereditary Jághirs of this nature depends upon the will of the Government, with whom it rests to determine the question of management.

(True Extract.)

(Signed) G. N. TAYLOR,
Inám Commissioner.

4th November 1861.

No. 344. ORDER THEREON, 19th May 1862, No. 1,102.

1. The Memorial from Jeya Ráu will now be forwarded to the Secretary of State with the opinion, that as the present arrangement is in accordance with Hindu Law it should not be disturbed.

2. Paragraphs 6 and 7 will be communicated to the Board of Revenue for their consideration and report.

(Signed) P. P. HUTCHINS,
Acting Deputy Secretary to Government.

Revenue Departt.

No 1102

Proceedings of the Madras Government
Under date the 19th May 1862.

Read the following
Letter from the Inam
Commissioner -

Reports with reference to the
Memorial of Jaya Row Jaghir-
dar of Sivanarpur, Cuddapah
District as to the Customs which
obtains in regard to succession
to such Jaghirs.

(Here enter 26 April 62 at 25)

The Memorial from
Jaya Row will now be
forwarded to the Secretary
of State with the opinion
that as the present ar-
rangement is in accor-
dance with Hindu law
it should not be dis-
turbed -

2. Paras 6 and 9 will
be communicated to the
Board of Revenue for their
consideration and report.

Lr. Board 9/10

Copies to the Rt. Hon.
Gen. Govt.

Ex: 18 March 1862 No 227 C 230
Copy sent to Collr. & Govt
Agent 20 May 1862 P. 374

Revenue Department
Inam Commissioner's Office
Letter dated 28th April 1862
Received 1st May 1862

To
The Secretary to Government
Revenue Department
Fort St George

Sir

I have the honor to forward herewith the accompanying Memorial of Jaya Row Jaghirdar of Sivanarpur Cuddapah District and to request that you will be pleased to move the Madras Government to forward the same to the Secretary of State for India in Council.

2. The Jaghir was granted by the Nawab of Cuddapah in the year 1800 A.D. and is held by the present Jaghirdar's grandfather and father successively. The Jaghir is now resumable by the Inam Commissioner under the provisions of Regulation XXV of 1802 and Act IV of 1858 but cannot be dealt with under Act XXXVII of 1852.

3. Paras 6 & 9 of the Memorial will be communicated to the Board of Revenue for their consideration and report.

I have &c
(Signed) W. Elliot
Inam Commissioner

No 3432
C.R. 1102
19 May

Saya Rowé Memorial

6

Draft
The originally has been
slightly modified but
the recommendation
is the same -
SDG

Debated
after Act
debated
printed
Bulletin
Committee
Senate

J. 344

14-5/62

Feb May 12th

Copy mca Letter to England
D/ 20th May A. 34 of 1862

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19-12-74

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Revenue 1862 Dept.
Pro: of Govt. for May.

No 1102.

Pro: of the Madras Govt.
D/19th May 1862.

Pro: of the Board of Revs.
D/21st May/63 Cnc. 1217 ms
13-6-63: 1032

Passing orders on letter from Inam Commissioner reporting on the Memorial of Seya Rau one of the Co-holders of the Jaghir of Ittiarpur Tea, Cuddapah District.

No 343 & 344.