M.R.O. 14—10,000—31-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1230 Press / Mis.

47-48.

Dated 4 — 6 — 1882.

Not to be folded or roughly handled

No. 47. Read the following Petition from VADARÁVOO SHENKARAPPA, &c., the Inámdárs of the lands in the village of Goommalairoo, &c., in the Táluq of Cottah Ramachendrapooram in the Godavery District, to His Excellency the Governor in Council, Fort Saint George, dated 1st May 1862.

HUMBLY SHEWETH,

1. This is an appeal against the decision (No. 1) of the Inám Commissioner which reversed the Deputy Collector's decision as contained in the sheet (No. 2.)

2. As the sheet contains at length the story of your Petitioner being heir to the grantee, and of the individual Davarapully Vencapah being a mortgagee, your Petitioner would respectfully refer your Lordship to it (sheet), but the object of this appeal is only to solicit your Lordship's interference and justly discuss whether the Deputy Collector's decision is right or wrong in saying that your Petitioner is entitled to receive Puttah for the Inám land in question, or whether the Inám Commissioner's decision in reversing it and granting Puttah for that land to its mortgagee and referring your Petitioner to look to Civil Law, is right or otherwise under the power vested in the Inám Commissioner under the Inám rules.

3. Under the circumstances at length stated in the sheet by the Deputy Collector, who decided that your Petitioner should be furnished with Inám Puttah for the land therein referred to, your Petitioner assures the Government that that Officer's decision is, it would appear, founded upon Section VIII, Regulation XXXIV of 1802, and upon the Sudder Ádálat decree in No. 105 of 1859, in ousting the mortgagee and granting Puttah to your Petitioner, and that the Inám Commissioner's setting aside that decision and granting Puttah to the mortgagee are not founded upon any public precedents except general idea, hence you Excellency's attention is respectfully requested to the reasons stated in the sheet, and set aside the Commissioner's decision leaving the one passed by the Deputy Collector affirmed on the following reasons: —

(1.) Because the father of your Petitioner left Will to the effect that his Zamíndári Estate should be enjoyed by his eldest son Soondrapah, and that his other sons (Petitioner and others) should inherit his Shrótrium and Inám lands as would be seen by the accompanying Will (No. 3).

(2.) Because any transfer which may have been made by Soondrapah to any one, as is the case in the present case, should be considered void, and in support of such invalid act, the Collector's Takeed (No. 4) will show that that authority had long before declined to recognize the transferree Davaracottah Vencapah.

(3.) Because the Petitioner's right to the land in question is not denied by the mortgagee's heir.

(4.) Because the Deputy Collector admits that the Registry of the Inám land in question stands in Petitioner's name in the public records, but states that it was mortgaged to Davaracottah Vencapah by his elder brother Soondrapah, whose deed cannot be valid under the Will (No. 3).

(5.) Because under the Section and Regulation and the Sudder Ádálat decree quoted above, the mortgagee, whose debt had more than been liquidated by annual produce of the land, should be compelled to deliver it over to the Petitioner, and Puttah granted to him for it. Instead of doing so, granting Puttah to the mortgagee's heir and referring the Petitioner, are, it is submitted, an uncalled for arrangement made by the Inám Commissioner, a circumstance which places the former on a footing of landlordship, and the latter on that of quite loser.

(6.) Because the Inám Commissioner is fully empowered to continue the Inám land to its correct or legal status as necessary investigation is made by the Deputy Collector both oral and documentary, more than the Civil Court can do.

4. Therefore your Petitioner respectfully prays your Lordship will have clemency upon your Petitioner, and issue instructions to the Inám Commissioner reversing his decision, and confirming the one passed by the Deputy Collector, which under the cogent reasons above afforded, is just and legal.

Shall ever pray.

No. 47A. Decision of the Inám Commissioner addressed to the said Shenkarappa, dated 20th September 1861.

This Department cannot undertake to re-instate the heirs of the original holder in the possession of these Ináms or to register their names as the acknowledged holders. The circumstances under which the Ináms were made over to the mortgagee, Devarapalli Kámama, and his long permissive enjoyment constitute a *primâ facie* title which must be recognized. They will therefore be confirmed in his name, but without prejudice to the claims of the younger sons of the original Inámdár, which they are at liberty to establish in the ordinary Courts.

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

No. 48.

ORDER THEREON, 4th June 1862, No. 1,230.

1. Petitioner is the second son of a permanent Inámdár, who died in 1838, leaving a Zamíndári Estate to the eldest, and the disputed Ináms with other property to the three youngest of his four sons.

2. In 1840 and 1842 the land in dispute was mortgaged, first by the eldest son, and subsequently by the Petitioner himself. It has since remained in the enjoyment of the mortgagee, and of his son, one Devarapalli Kámama, the petitioner's opponent.

3. The Deputy Collector considered that the Title Deed should be given to the Petitioner and his younger brothers, in whose names the Inám stood in the Collector's Land Register and accounts.

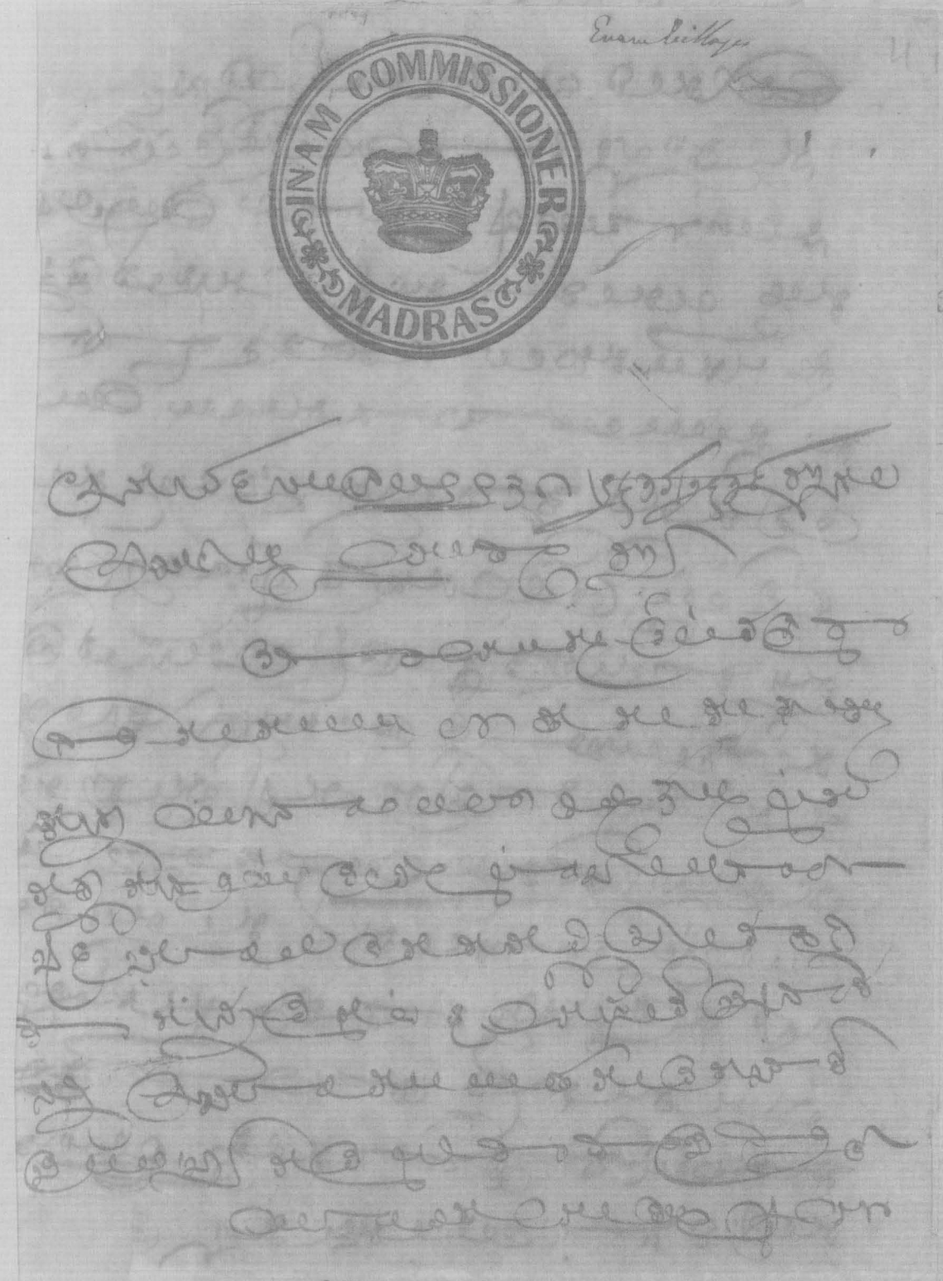
4. This opinion the Commissioner overruled, referring the Petitioner to the Civil Court on the ground that "the circumstances under which the Ináms were made over to the mortgagee, "and his long permissive enjoyment constituted a *primâ facie* title."

5. The Governor in Council cannot concur in the view taken by the Commissioner. His decision seems to throw the onus of ejectment on the wrong person.

6. No permissive enjoyment, for however long a period, can amount to a title, and in this case there are other circumstances opposed to the mortgagee's claim. The mortgage seems in the first instance to have been granted by an unauthorized person, and it is certainly at variance with Regulation IV of 1831. Besides, as pointed out by the Commissioner's Deputy, the principal with interest has already been recovered from the Estate.

7. His Excellency in Council therefore resolves to direct that the mortgagee's Title Deed be cancelled, without however disturbing his possession. The Acting Commissioner will make out a new document in the names registered in the Collector's accounts.

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



Proceedings of the Madras Government, Revenue Department,
4th June 1862.

No. 47A. Decision of the Inám Commissioner addressed to the said Shenkarappa, dated 1861.

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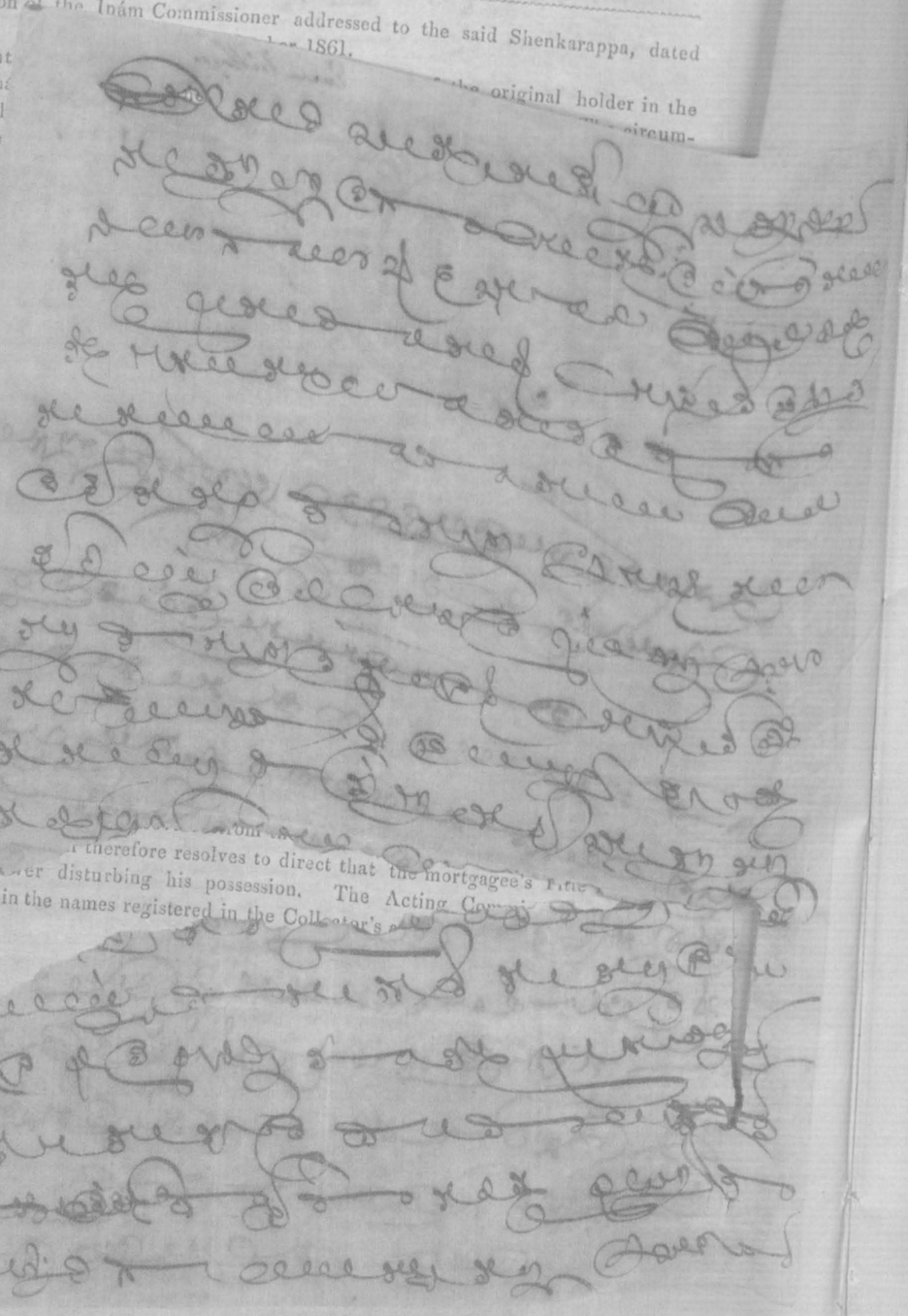
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Proceedings of the Madras Government, Revenue Department,
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Inam Commissioner's
Endorsement relative
to the Enam Lands in
Gummalairoo Village
in the Zillah of
Godavari Dt

23d Nov: 61

No 1

Am No 1302 of 1860

4 Annas

Rec'd 1860

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2 Rent

Endorsement

Stating that out of the
Enam Lands situated in Vegayummapata
Veer. 6 Baramms of the Land have
been awarded to 5 Brahmmuns
& Hammuns by the Deputy Collector
Venkatachellapa and claim that
the same may be made over to them

Regarding this case
the Register Sheets of each village
have been examined. It appears
that 6 Baramms of the land in
the village of Vegayummapata and
also the Enam Lands (situated in
the other villages of Gummaluru
Veer) which have been settled by
the Deputy Collector seem to

Proceedings of the Madras Government, Revenue Departmen
4th June 1862.

No. 47A. Decision of the Inám Commissioner addressed to the said Shenkarappa
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for the same. This Department
will take no steps to alter the
present enjoyment of the land
and the Petitioner should through
the Civil court get his claim
settled to the land at issue. —

1302
of 1862.

Dated
23d Nov
1861.

Signd G.T. Taylor
Inam Commissioner

True Translation
A Strattanzachary

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A.D. Khan

P. Mr. 30/9/62

1345

Memo. Pet^n 1302 of 62.

Petitioner appeals against an order of the Inám commissioner granting a title deed to petitioners opponent contrary to the opinion of the deputy Collector.

A Zamindár, dying about 1838, left his estate to his eldest son, and the disputed ináms (among others) to the second son, the Petitioner his younger brother. In 1840 the eldest son executed a deed, making over to the Deft^r as much land out of the ináms as would repay him at the rate of 200 Rs per putty for certain advances. Defendant paid Rs 2079 & received in return 9-10 parties of Inám land.

In 1841 petitioner complained to the Collector that his land had been unjustly sold by his elder brother, and the Collector in consequence declined to register the Inám in Defendant's name. Subsequently in 42 petitioner and his elder brother let Defendant have 3-11-4 putties more for 1000 Rs, & Defendant executed a bond promising to restore the whole amount of land in his possession

Inám Commissioner

(See Extr No 1302 of 1862)

Petitioner

Devara:

considered that the title deed should be given to the Petitioner & his younger brothers, in whose names the Ináms stood

4345

on payment of the principal he had advanced. Subsequently 2 pattis of the original pmt were returned to Petitioner, but it is not known whether any actual payment was made to defendant.

In 1863 the eldest son complained that defendant refused to return the mortgaged property, tho' he had recovered more than the sums he had advanced from its usufruct. The Amildar reported this to be the case, estimating that principal & interest defendant must have recovered Rs 652. No order was passed on this by the Collector but the case was subsequently referred to the Inam Commission.

The deputy Collector held that under Sec VIII Reg 24 of 1802 the defendant having recovered two hundred Rupees more than his principal & interest might be compelled to restore the land, and he recommended that the title deed

Proc. of Madras Govt. under date the 4th June 62, No. 1230

Read Petition No 302 of 1862 from one Vadaravu Venkatarayudu, an Inamdar of Gummalúru, Godavery District, appealing against an order of the Inam Commissioner

(See Petn No 1802 of 1862)

[illegible] be granted in the name of the petitioner & his younger brothers, whose names appear in the Collector's register.

The Inam Commissioner in his Special Assistant, dissenting from the views above of opinion that the Registration records above referred only to the Civil Courts, & that the Collector under which the Inam [illegible] to the mortgagee, & his [illegible] to the mortgagor, constitutes [illegible] enjoyment constitutes [illegible] the petitioner [illegible] the Collector [illegible] the Commissioner [illegible] the Collector [illegible] the petitioner [illegible] appeal [illegible] It seems [illegible] the title Collr had given deed to the wrong man. The

considered that the title deed should be given to the Petitioner & his younger brothers, in whose names the Inams stood in

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Petr. is the registered Inamdar. the other man, Knyt in possession. claims on a mortgage deed which is said to have been improperly painted & which, any how, is opposed to Reg III of 1831. I think the Court should have previous the deed & the registered Inamdar, being the other man in possession, to be ejected in due course of law. As it is, the onus of ejectment is thrown on the Inamdar. No permissive enjoyment amounts to a title, however long it may be.

J. R. S.

6 Jan 1863 Rec. 29th May

The Letter should be given to Petr.

Pro. of Madras Govt. Under date the 4th June/62, No. 1230 R. D. 10

Read Petition ~~No 302 of 1862~~ from one Vadaravu Sheukarappa, an Inámdár of Gummalúru, Godavery District, appealing against an order of the Inám Commissioner.

(here enter No 1302 of 1862)

Read also Report of the Inám Commissioner addressed to the said Sheukarappa. (Receipt) dd 26 Sept 1862. here enter 23rd Nov 1862

order thereon.

Petitioner is the second son of a permanent Inámdár, who died in 1838, leaving a Zamindary Estate to the eldest, and the disputed Ináms with other property to the three youngest of his four sons.

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Revenue 1862 a Dec 5th

Pro. of Govt for Inam.

No 230.

Pro. of the Madras Govt

Dt 4 June 1862.

From Inam Commissioner dt

14 Oct. 62 & No 2. in Do.

From Inam Comm.

dt 26 Aug. 63 & No. 740

Passing orders on

Petition from Vadaravoo

Shunkarappa an Inam-

dar of Gummalaru,

Godavery District, appe-

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No 47-47A & 48.

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