

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 667	Press Mis.
431-432	
Dated	26-3-1862.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
26th March 1862.*

No. 431. Read the following Proceedings of the Board of Revenue, dated 21st March 1862,
No. 1,901 :—

Read the following letters :—

From J. SILVER, Esq., Collector of Tinnevely, to W. HUDLESTON, Esq., Secretary to the
Board of Revenue, Madras, dated 19th February 1862, No. 73.

SIR,

1. I have the honor to forward translation of a Complaint filed by one Shaw Saib, *alias* Syed Imamoideen in Original Suit No. 258 of 1861, on the file of the Mufty Sudder Amin's Court of Tinnevely, against myself as Collector, and three other private individuals, claiming an Inám land that was ordered to be attached in 1857, and Rupees 233-7-3, being the proceeds of the above land held in deposit, together with draft of an answer proposed to be put in by me, for the Board's approval. This history of the case is as follows :—

2. Five Seed Cottahs, yielding an annual revenue of Rupees 65 to Government in the village of Chuttrarettiaputty in the Sattur Taluq in this District, was granted as an Inám to one Shuckerbará for subsistence, as being a servant of a Mosque at Trichinopoly, known by the name of "Nuthud Oulia Durgah" under a Sannad, dated 24th Tai of Fasli 1193 (3rd February 1787), and attested by the seal of the Tinnevely Kacheri. On the death of the original grantee it was registered in the year 1822, in the name of his son Cajudeen by Mr. Hudleston; after his death in the year 1824, it was continued to his widow Animabibi.

3. In 1854 the Plaintiff Shaw Saib presented a complaint to the Collector, stating that the said Animabibi had mortgaged the Inám lands, and that the prescribed service to the Durgah at Trichinopoly was not kept up by her. The Tahsildár of Sattur was directed to report whether the land referred to was mortgaged, and he replied in the negative. An order was then issued to the Tahsildár under date the 14th August 1854, stating that as the fact of Animabibi's keeping up the service or otherwise was not known, she should be informed that unless she produced a voucher from the Collector of Trichinopoly, in proof of the service being performed by her, she would not be allowed to continue in the enjoyment of the Maniem, and this order was followed up by another on the 11th September 1856, to the effect that she should produce the voucher within one month.

4. On the 13th December following, the Tahsildár having reported that Animabibi had failed to produce the required voucher, he was directed by an order dated the 7th January 1857 to attach the Inám lands, and to keep the proceeds in deposit until the production of a document from the Collector of Trichinopoly certifying to the continuance of the service in the Mosque.

5. On the 18th March 1858, at the request of Animabibi the late Acting Collector Mr. Mayne addressed the Collector of Trichinopoly, requesting to be informed whether the service in question was being kept up by her, and he replied by letter dated the 14th June, that no service was performed either by her, or by any of her party.

6. In March 1859, the Tahsildár of Sattur reported that it had come to light, that Animabibi had died in September 1858 at Trichinopoly. Subsequently her grand-son Cajudeen, or the son of her daughter, marked E in the accompanying Genealogical Table, requested that the Inám might be continued to him, but an endorsement was given to him on the 3rd September 1859, to the effect that the case has been placed at the disposal of the Inám Commissioner agreeably to his Circular of the 30th May 1859, No. 46, which states that all cases relating to lapsed Ináms should be held at his disposal.

7. The Plaintiff Shaw Saib *alias* Syed Imamoideen, who is the great grand-son of the original grantee in the female line, claimed a share of the Maniem in the year 1848, and he was referred to the Court, as Service Ináms cannot be sub-divided.

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8. In 1851 he presented a Plaint in the Principal Sudder Amín's Court against the above said Animabibi for a share of the Inám, but it was rejected under an order that it cannot be entertained unaccompanied by a certificate from the Secretary to Government.

9. Thereupon he submitted two Petitions to Government, Nos. 37 and 38 of 1851, which having been referred to the Board they forwarded them to the Collector, upon whose report dated the 19th March 1852, No. 59, the Government in Extract from Minutes of Consultation, dated the 26th April 1852, No. 384, annexed to the Board's Proceedings of the 13th May, declined to comply with the Petitioner's request, on the ground that the sub-division of the Inám will be opposed to the views expressed by the Board and Government, in the cases referred to in the notes given at page 295 of the Board's Circular Order, Volume 1.

10. After the death of Animabibi, the last holder of the Inám, the Plaintiff requested that the Inám might be continued to him, and an endorsement was given to him on the 3rd September 1859, to the effect that the case has been placed at the disposal of the Inám Commissioner. The plaintiff dissatisfied with this endorsement, and before obtaining a final decision from the Revenue authorities, has filed this Suit which is opposed to the provisions of Regulation IV of 1831.

TRANSLATION of a Plaint filed in the Mufty Sudder Amín's Court of Tinnevelly in Original Suit No. 258 of 1861 by Shaw Saib, alias Syed Imamoideen Saib, son of Syed Savaludin Gurukal of Tinnevelly, against J. Silver, Esq., Collector of Tinnevelly and three others.

1. The lands particularized in the subjoined list were granted by the Nabob under a Deed of Gift to my ancestor Shuckerbara Gurukal for the purpose of performing certain services in the Nudthud Oulia Durgah or Mosque at Trichinopoly, who performed the services and enjoyed the Inám. After him the Inám was given to one Cajudeen, alias Kutbadin Saib his brother's son, who married his daughter, and who was also my maternal grand-father, under an Iba Parvana or will. Next to him, his daughter, that is my mother, inherited the Inám, and the services in the Mosque were performed by her (now deceased), myself and my brothers, and I who resided here was in the enjoyment of the Inám. In 1841 I was obliged to go to Madras on some urgent affairs, when I entrusted the lands to Oonur Saib (since dead), who was the husband of the 2nd and 3rd Defendants, and my maternal uncle.

2. Subsequently the Defendants 2 to 4 took possession of the lands, and in 1851 I preferred a Suit in *forma pauperis* in the Principal Sudder Amín's Court, without the consent of my brothers for the recovery of a portion of the property from them; but as this was irregular, the Court passed an order under date the 11th September 1851, to the effect that I should produce an endorsement from Government.

3. In the interim, Animabibi, mother of the 3rd Defendant and who has no claim whatever to the Inám, fraudulently obtained an order from the Revenue authorities in 1850 continuing the Inám in her name. On coming to know this I presented petitions in the said office, soliciting orders for the continuance of the Inám in the names of myself and my brothers, on the ground of our performing the service in the Mosque, and adduced proof of the same; but the 1st Defendant who placed the Inám under attachment from 7th January 1857, did not make over the Inám to us, or pass any final order in the case.

4. As the Inám was endowed for the performance of service, an endorsement from Government is not necessary under the provisions of Section 14, Regulation VII of 1817.

5. I have obtained a Muktiarnamah, dated the 26th September 1861, from my brothers (1) Meroogulam Gous Saib, (2) Saiyad Kader Saib, and (3) Saiyed Amir, who now permanently live in another District named above and perform the service in question, authorizing me to carry on the suit in their behalf also.

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6. I therefore pray that the lands specified in the subjoined list, which yield an income of Rupees 114-2-8 per annum, and which are valued at Rupees 2,234-15-6, may be released from attachment, and that the amount of Inám held in deposit from Faslis 1266 to 1269, viz., Rupees 233-3-7, may be adjudged to be restored to me.

(Here enter List.)

21st November 1861.

(Signed) SHAW SAIB, alias SYED IMAMOIDEEN.

(True Translation.)

(Signed) J. SILVER, Collector.

DRAFT of an Answer proposed to be filed in Original Suit No. 258 of 1861, on the file of the Mufti Sudder Amín's Court of Tinnevelly.

The Government revenue on the Inám land referred to in the Plaint was assigned as maniem for subsistence, and as it therefore comes within the scope of Regulation IV of 1831, and not of Regulation VII of 1817, the case is not cognizable by the Civil Court.

The 1st Defendant therefore prays that the case may be struck off the file.

From J. SILVER, Esq., Collector of Tinnevelly, to W. HUDLESTON, Esq., Secretary to Board of Revenue, Madras, dated Tuticorin, 13th March 1862, No. 103.

SIR,

As requested in the Board's Telegram of the 4th instant, I have the honor to forward an English translation of the Sunnud under which the Inám, referred to in my letter of the 19th ultimo, No. 73, is held, and to state that the date by which the defence in the Suit must be filed is the 6th April.

Translation of a Persian "Hibba Namah" or a Deed of Gift granted to Kasoodeen, son of Chuckrabarah, residing at Trichinopoly, a servant attached to the "Azarath Nattad Oullya" Mosque on the 24th Thye, 1196 Fasli.

1. Out of the 30 Seed Cottahs purchased by the Nabob Walajah, in the village of Reddiapatty attached to Virdoopatty in the Nadoomandalum Taluq, in the District of Tinnevelly on behalf of his Chuttrum, 2½ Cottahs of 1st class lands fit for wet cultivation under Keelacolam tank, and 2½ Cottahs of 2nd class dry land under Melakolam tank, are hereby given to you in perpetuity as Survamaniem (rent free) for your subsistence, agreeably to the Cadjan Deed of Gift executed on a former occasion.

2. You will, therefore, adopt the necessary measures to bring the said land, as per boundaries given, under cultivation, and raise such cultivation as you like, and enjoy the produce, praying day and night for the longevity and prosperity of His Highness the Nabob Walajah.

3. You will consider this as a valid "Hibba Namah" or a Deed of Gift, and gladly perform the prayers prescribed above.

(Signed in Persian language) BYZE.

There is an account of measurement for the above land.

(True Translation.)

(Signed) J. SILVER, Collector.

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1. Ordered that the above letter be submitted to Government, with the Board's recommendation that the defence of the suit in question be sanctioned at the public cost.
2. The Plaintiff sues under Regulation VII of 1817 for possession of an Inám as having been granted for support of service in a Mosque, and sequestered during the life-time of the last holder as the service was not maintained, and for the mesne profits in deposit pending the disposal of the case by the Inám Commissioner.
3. The Collector proposes to plead Regulation IV of 1831, in bar of the Court's jurisdiction, and as from the translation of the Sunnud it is clear that the grant was a personal one for subsistence, and not a Service grant, the Board consider the defence good and sufficient, and recommend that the Collector be authorized to file it as modified by the Board in italics. The time for putting in the defence expires on 6th April.
4. Although the Board thus consider that the Plaintiff's Suit can be successfully resisted, and that he in fact has no equitable claim whatever to the Inám, they cannot but remark on the very improper manner in which the case was dealt with by the District authorities as a Service Maniem, and sequestered during the life-time of the last holder on 7th January 1857, on the plea that no service was performed, and the proceeds held in deposit to the present time.
5. The Board are of opinion that the mesne proceeds which accrued from the date of sequestration to the death of the last holder in September 1858, should be at once made over to her daughter. The question of succession to the Inám can be reserved for disposal by the Inám Commissioner.
6. The Board further observe that the Collector's account of the origin of the grant is not consistent with the Sunnud.
7. The grant was not made by the Nabob's Government to Chuckerabara, and subsequently continued by the Collector to his son Cajudin as stated by the Collector. Cajudin was the grantee under the Sunnud, and the Plaintiff's claim, which is based on his descent from Chuckerabara the father of the grantee, is thus destitute of the slight foundation on which he grounds it.

(True Copies and Extract.)

(Signed) W. HUDLESTON, Secretary.

No. 432.

ORDER THEREON, 26th March 1862, No. 667.

1. The Government sanction the defence of the suit as proposed, but will determine when a copy of the Decree is submitted whether the costs, if any be adjudged against the Collector, shall be borne by that Officer or by the Government.
2. The Government concur with the Board that the mesne proceeds of the Inám in deposit from the date of the attachment of the Inám to the death of Ammabee should be paid to her legal heirs.
3. The inaccuracies noticed by the Board in the last paragraph of their Proceedings are not creditable to the Collector.

(Signed) J. D. SIM,

Secretary to Government.

6. The Board further observe that the Collector's account of the origin of the grant is not consistent with the Sunnud.

7. The grant was not made by the Nawab's Government to Chuckerabara - and subsequently continued by the Collector to his son Kajudin as stated by the Collector. Kajudin was the grantee under the Sunnud, and the Plaintiff's claim which is based on his descent from Chuckerabara the father of the grantee is thus destitute of the slight foundation on which he grounds it.

(True Extract.)

J. D. SIM
Secretary

J. D. SIM Esq.

Secretary to Government

Revenue Department

The inaccuracies noticed by the Board in the last para of their Proceedings are not creditable to the Collector.

26th March 1862

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26th March 1862

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The Government has been the
 expense of the suit in proportion
 but will determine whether
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 collector shall be borne by
 that officer or by the Govt
 The Govt concurs with
 the Board that the income
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