M.R.O. 14--13,000--27-9-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 158	Press ~~Mis.~~
166.167	
Dated 10.-8. 1865	

Not to be folded or roughly handled

No. 166. Read the following Proceedings of the Board of Revenue, dated 26th July 1865, No. 4,371 :—

Read the following Tabular Report from J. W. B. DYKES, Esq., Collector of Nellore, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated 19th June 1865, on a lapsed Yeomiah in the District of Nellore.

No.	Talook and village. Extent and value of the entire Inám.	When and by whom granted. Name of the original grantee. Sunnuds or other documents in support of the grant.	Nature of the grant, charity or service; if service, nature of the duty prescribed by the grant.	Name of the last holder, date of his decease, and the relationship in which he stood to the grantee.	Share enjoyed by the deceased, and that held by the other members.	Family left by the deceased, and name and age of the parties; their circumstances, and the means of subsistence possessed by them.	Recommendation of the Board of Revenue.	Decision of Government.
1	2	3	4	5	6	7	8	9
	Nellore, in Nellore Talook, 12 Rupees per month, or 144 Rupees per annum.	Originally granted under a Parwana of the Nabob Wallajah, dated 21st Zilhez 1186 Hijiri (A.D., 16th March 1773) to five persons, viz., Mahomed Yasaff, Sufder, Ilussain, Shaib Mactum, Gulam Alli, and Jainullabdin.	Service Yeomiah of Asar Sarif.	Mahomed Asadulla died on the 30th June 1862; he was the son of Jainullabdin, one of the original grantees.		1 Nadimbi, wife of deceased, aged—years. 1 Alli Sahib, son of the deceased, aged 6 years. 1 Gassabi, daughter of the deceased, aged 7 years. 3		

Column 8 of Statement.—Recommendation of the Collector, and the grounds on which it is made.

1. Mahomed Asadulla, who was on receipt of a monthly Yeomiah of Rupees 12, died on the 30th June 1862, leaving behind him a widow, a son, and a daughter, both of whom are minors.

2. The widow prays that the Yeomiah may be renewed in the name of her son, Alli Sahib, while one Jainullabdin, who calls himself elder brother of the late incumbent, claims that half the allowance, if not the whole, may be registered in his name.

3. The Yeomiah in question is a part of the annual allowance of Rupees 360, originally granted by the Nabob Wallajah on the 16th March 1773, to the five persons named in Column 3, who enjoyed the same in equal shares of 6 Rupees each.

4. Jainullabdin, last of the above five persons, was the son of the fourth named Gulam Alli, whose share was, on his demise, transferred to the son, raising his share from 6 to 12 Rupees thereby.—*Vide* remarks entered opposite to No. 6 in the Yeomiah Statement No. 3, sent to Board on the 20th October 1812.

5. The said Jainullabdin had a wife named Fatima Bibi and a nikka wife named Dowlata Bibi, who died on the 11th December 1831. Jainullabdin, one of the present claimants, is the son of the nikka wife, the deceased holder, Mahomed Asadulla, being the son of the other wife.

6. From the correspondence marginally noted, it will be seen that the Board recommended the renewal of the Yeomiah in the name of Mahomed Asadulla, "the eldest legitimate son" of the previous holder, in accordance to the wishes of the parties concerned permitting Jainullabdin, son of the nikka wife, to do the service during his minority; and Government in their Order of the 2nd August 1833, sanctioned the registry to be made accordingly.

To Board, dated 11th October 1832.
From do. do. 18th do.
To. do. do. 7th November do.
From do. do. 15th do.
To do. do. 21st January 1833.
From Board to Government, dated 25th July 1833.
From Government, dated 2nd August 1833.

The question now to be considered is whether the Yeomiah in question is one which should be continued; if so, which of the two claimants has a better claim.

7. As regards the first point, it will be seen from paragraph 12 of Mr. Smalley's letter to Board, dated 23rd October 1828, the service for which the Yeomiah was granted, called "Asar Sarif," consists in lighting lamps, performing every Friday certain prayers called Moulud before the Asar, which is said to be a hair from the beard of the prophet Mahomed, and once every year the ceremony of Wursus, when a number of poor are fed; and the Board in recommending the renewal in the name of the last incumbent, Mahomed Asadulla, in 1833, satisfied themselves, by a special reference, that the service in question was held in great esteem by the Mussalmens.

8. From Arzi No. 58, dated 15th April last, addressed by the Tahsildar of Nellore Talook, and its enclosure, it appears that Jainullabdin pleads that his

absence at the time of his father Jainullabdin's death led to the registry of the entire Yeomiah in the name of Mahomed Asadulla; that, on his return, a compromise was made, and that eventually a razinamah was filed on the 7th December 1837 in the Collector's Office, where by Rupees 4-8-0 were agreed to be paid to him out of the 12 Rupees. Jainullabdin further asserts that the terms of the razinamah were enforced by the former Collectors, and that he has been doing the service from the demise of the late incumbent, Mahomed Asadulla.

9. On the other hand, it is alleged on behalf of Alli Sahib, that the mother of Jainullabdin was the concubine, and not the nikka wife of Jainullabdin, and that in consequence of the illegitimacy of his birth, his claims were passed over in 1833, when the registry was made in the name of Mahomed Asadulla, who was younger than Jainullabdin. It is further alleged, that the mother of Alli Sahib has no knowledge of the compromise or the razinamah referred to by Jainullabdin, and that the service is being performed by a proxy employed by the widow from the time of her husband's death.

10. It appears from the Tahsildar's Arzi that the Kazi of Nellore informed him that there is nothing on the Kazi's record to shew that the mother of Jainullabdin was the nikka wife of Jainullabdin, and that from the time of Mahomed Asadulla's death, the service is being performed by a Vakeel employed by the widow.

11. On a reference to the vernacular records, it appears, that an amicable arrangement was made between the late Mahomed Asadulla and Jainullabdin, and a razinamah filed in 1837, as stated by the latter. In Takeeds, dated 14th and 29th November 1839, bearing Nos. 901 and 988, respectively, issued by the Collector Mr. Stonhouse, the Cash-keeper was, with reference to the said razinamah, directed, to pay, out of the 12 Rupees, a sum of Rupees 6 to Mahomed Asadulla, Rupees 4-8-0 to Jainullabdin, (described as the son of Mahomed Asadulla's step-mother,) and the remaining Rupee 1-8-0 to a third party. The Cash-keeper was further directed to enter the name of Mahomed Asadulla in the abstract, but to make the payments as above shewn.

12. This arrangement continued until 1849, when the Collector, Mr. Smith, on a reference to the Kazi, having ascertained that Mahomed Asadulla was alone entitled to the Yeomiah, and the service attached thereto, and old enough to do the service, passed an order to the Cash-keeper, dated 6th February 1849, No. 1,614, directing the total allowance of 12 Rupees to be paid to him, leaving to his option the payments to Jainullabdin, &c.

13. It is thus clear that Jainullabdin's claim whether tenable or not, was passed over when the Yeomiah in question was renewed in 1833, consequent on the demise of Jainullabdin through whom he founds his claim. The Board, in recognizing Mahomed Asadulla as "the eldest legitimate son of Jainullabdin," apparently thought that Jainullabdin's descent was illegitimate. But there can be no doubt that Jainullabdin's descent is legitimate, not only because the Board speak of his mother as the nikka wife of Jainullabdin, but because he was allowed to perform the service, which being held in great esteem, could not have been entrusted to a person of doubtful origin.

14. The present Kazi's statement to the effect, that there is nothing on hi. record to support the nikka, cannot at this distance of time be implicitly relied on especially as the fact of nikka was recognized in 1833, although now called in question by the opponents of Jainullabdin. The fact that a portion of the Yeomiah was allowed to Jainullabdin with the consent of the registered holder, is a further proof of the legitimacy of his birth.

15. The present question, therefore, turns to this, viz., that granting the nikka, is the claim of Alli Sahib, whose father held the Yeomiah from 1833, to give way to that of Jainullabdin, who was passed over in 1833, and never brought his claim forward till now, not, even when the private arrangement was set aside by Mr. Smith in 1849, or the claims of Alli Sahib founded on an undisturbed enjoyment of the Yeomiah for upwards of thirty years the claim to be admitted.

16. Jainullabdin states, that he was away when the renewal took place in 1833. But of this there is no proof.

17. And looking to the descent of the service, as described in the preceding paragraph, the Collector recommends the renewal of the Yeomiah in question in the name of Alli Sahib, son of the deceased holder, on the usual condition of service, with payment of arrears, amounting to Rupees 432, for a period of three years, from 1st June 1862, to 31st May 1865.

18. As regards the delay in this case, it has to be stated, that, on 22nd August 1862, Jainullabdin presented a Petition No. 294, and on the 25th of the same month, the widow of the deceased presented Petition No. 325. Both these Petitions were referred to the Tahsildar of Nellore Talook, with Takeed No. 190, dated 1st September 1862, and the Tahsildar's report, dated 15th April last, No. 58, having been received on the 22nd idem, the Tahsildar will be called on to explain, why it has taken two years to submit the required information, but at the same time the Collector is aware, that the work of the Talook is heavy, and claims, such as those under consideration, involve reference to records that current business jostles with.

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1. Submitted to Government with the Board's recommendation that the registry of the religious service Yeomiah of Rupees 12 per mensem in the name of Alli Sahib, the son of the deceased, be confirmed, as the service is still kept up.

2. Alli Sahib being a minor, (six years of age,) the allowance will be paid during his minority to his mother. The payment of the arrears to her should also be sanctioned subject to the audit of the Civil Paymaster. They amount Rupees 432 for the three years, from 1st June 1862, to 31st May 1865.

3. The Collector will be requested to submit the Tahsildar's explanation of the delay in reporting this case for orders.

No. 167. ORDER THEREON, 10th August 1865, No. 1,858.

Miscellaneous.

1. Confirmed, and payment of arrears Rupees 432 sanctioned as requested.

2. The delay of three years in disposing of the case is inexcusable. The explanation called for from the Collector will be submitted to

Government when received. He should further be required to say, whether any reminders were sent from his own office to the Tahsildar, urging him to expedite the delayed report; and if not, to state why this duty was neglected.

(True Extract.)

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

To the Board of Revenue.
" the Accountant General

I. S. T. Augustin.

10. It appears from the Tahsildar's Arzi that the Kazi of Nellore informed him that there is nothing on the Kazi's record to show that the mother of Jainullabdin was the nikka wife of Jainullabdin, and that from the time of Mahomed Asadulla's death, the service is being performed by a Vakeel employed by the widow.

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14. The present Kazi's statement to the effect, that there is nothing on his record to support the nikka, cannot at this distance of time be implicidly relied on, especially as the fact of Nikka was recognized in 1833, although now called in question by the opponents of Jainullabdin. The fact that a portion of the Yeomiah was allowed to Jainullabdin with the consent of the registered holder, is a further proof of the legitimacy of his birth.

15. The present question, therefore, turns to this, viz., that granting the nikka, is the claim of Alli Sahib, whose father held the Yeomiah from 1833, to give way to that of Jainullabdin, who was passed over in 1833, and never brought his claim forward till now, not, even when the private arrangement was set aside by Mr. Smith in 1849, or the claims of Alli Sahib founded on an undisturbed enjoyment of the Yeomiah for upwards of thirty years the claim to be admitted.

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18. As regards the delay in this case, it has to be stated, that, on 22nd August 1862, Jainullabdin presented a Petition No. 294, and on the 25th of the same month, the widow of the deceased presented Petition No. 325. Both these Petitions were referred to the Tahsildar of Nellore Taluk, with Takeed No. 190, dated 1st September 1862, and the Tahsildar's report, dated 15th April last, No. 58, having been received on the 22nd idem, the Tahsildar will be called on to explain, why it has taken two years to submit the required information, but at the same time the Collector is aware, that the work of the Taluk is heavy, and claims, such as those under consideration, involve reference to records that current business jostles with.

1. Submitted to Government with the Board's recommendation that the registry of the religious service Yeomiah of Rupees 12 per mensem in the name of Alli Saheb, the son of the deceased, be confirmed, as the service is still kept up.

2. Alli Saheb being a minor, (six years of age,) the allowance will be paid during his minority to his mother. The payment of the arrears to her should also be sanctioned subject to the audit of the Civil Paymaster. They amount to Rupees 432 for the three years, from 1st June 1862, to 31st May 1865.

3. The Collector will be requested to submit the Tahsildar's explanation of the delay in reporting this case for orders.

(A true Copy and Extract.)

H. Wakefield

Acting Secretary.

To W. Hudleston, Esq., Acting Secretary to Government, R. D.

Copy to J. W. B. Dykes, Esq., Collector of Nellore.

8th-1858.

Confirmed, & payment of arrears Rs 432 sanctioned as requested.

The delay of 3 years in disposing of this case is inexcusable. The explanation called for from the Collector will be submitted to Govt when received. He should be required to state whether any reminders were issued to the Tahsildar urging him for explanation of the delay, & if not to state why this duty was neglected.

The 3d order - para 3 - seems to Sidewarth the Collector, who must be at fault, to explain. If he be responsible with his case to submit a matter of this kind having occurred for 3 years. Govt should call for the 4th order & require the Collr to report. Neither any reminders were sent to the Tahsildar during the three years, & if not, why not to be responsible for report in the case, & if not, why not under orders.

Exd. J. Wright

W.H.

11th Augt. 1865.

Recommending confirmation of registry of Yeomiah of Rupees 12 per mensem enjoyed by Mahomed Asadulla in Nellore District in name of his son Alli Saheb, and payment of arrears due on it, and requesting Collector to submit Tahsildar's explanation of delay in reporting this case for orders.

Dated 26th July 1865.

No. 4,371.

Read 2nd August 1865.

No. 2000.

Revenue Department.

PROCEEDINGS OF THE BOARD OF REVENUE.

Read 2nd Paragraph of Proceedings of Board of Revenue, dated 11th August 1863, No. 20-21.

8th Augt. 1865.