

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2747	Press Mis
156.157	
Dated 13.11.1865	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
13th November 1865.*

No. 156. Read the following Proceedings of the Board of Revenue, dated 18th October 1865, No. 6,614.

Read the following letter from the Acting Collector of Cuddapah, to the Acting Secretary to the Board of Revenue, dated 31st August 1865, No. 122 :—

Letter from Board to Collector of Cuddapah, 1837 a. Shrotriem, for three lives, upon a late Head Sheristadar of this District named Butcha Row.

1. The Government conferred in 1837 a. Shrotriem, for three lives, upon a late Head Sheristadar of this District named Butcha Row.

2. The Shrotriem consisted of the villages of Putlampalli, situated in the Cuddapah Talook, and Edapalapaya, situated in the Talook of Pulivendala.

3. The revenue was estimated at Rupees 5,600.

4. The deed of grant is dated 4th July 1842. It sets forth that Butcha Row is to enjoy the whole revenue of the villages during his life, and goes on to say "the above-mentioned villages are granted after your demise to your second son, Sashagheri Row, and his nearest heir, to be held by them successively under Shrotriem tenure, but upon the condition of the annual payment of a Peisheush of Rupees 2,800."

5. The death of Butcha Row was reported to the Board in a letter from the Collector, dated 23rd October 1845, No. 84.

6. Butcha Row was succeeded by his second son Sashagheri Row, who died on the 4th of July 1861. His death was not reported.

7. His successor was his eldest son, Mysore Soobba Row, who, I have the honor to report, died at Royachoty on the 27th instant.

8. I request the instructions of the Board in regard to the Shrotriem.

9. Boojanga Row, the younger brother of the deceased, a boy of fifteen, has this day presented the enclosed petition. He states he is the undivided brother of the deceased, and begs, that as such, he may be considered as part of the third of the lives for which the Shrotriem is granted. He points to note 6 at page 176 of the Board's Circular Order for 1834, Volume I., in support of his prayer.

10. His father married three wives. By the first Baghirthammah, who is dead, he had issue the deceased Mysore Soobba Row. His second wife Vencammah, who is also dead, bore him the *Petitioner*, and no other child.

11. He had no issue by his third wife Tungamah, who is reported to be living with her family at Wallajapett, in the North Arcot District.

Pending the instructions of the Board, I have ordered the Tahsildars to resume the Shrotriem.

J. R. C.

ENCLOSURE No. 1.—Petition.

1. Submitted for the consideration and orders of Government.

2. The grant to Butcha Row, the grandfather of the present applicant, is referred to in note 4, page 175 of the first Volume of the Board's Circular Orders.

3. From the Despatch of the Honorable Court, dated 8th February 1837, No. 2, paragraphs 9 to 11, it will be observed that the extension of the Shrotriem was sanctioned "to the two next heirs of Butcha Row with the provision that a quit-rent shall be imposed on the succeeding lives."

to government.

3. The decision arrived

*Proceedings of the Madras Government, Revenue Department,
12th November 1865.*

4. The draft Sunnud originally submitted for the sanction of Government, contained the following passage:—"The Honorable Court of Directors having been pleased to authorize the grant of the Shrotriem to be continued after your demise to your two next heirs in succession upon payment of a quit-rent equal to one-half of the estimated revenue of the villages, it is hereby declared that the above-mentioned villages are granted in succession after your demise to your two nearest male heirs to be held upon Shrotriem tenure, &c., &c." Butcha Row, however, wished his second son to succeed him, and after considerable correspondence the Government agreed* to this, and the Sunnud which was eventually† issued, contained the passage quoted by the Acting Collector in paragraph 4 of his letter recorded above.

* 25th April 1812, No. 532.

† Extract from Minutes of Consultation, 4th July 1842, No. 818.

5. The death of the original grantee was reported to Government on the 4th December 1845, No. 735. His son and successor died in 1861, but this event was never brought to the Board's notice, as it should have been.

6. The late holder of the Shrotriem is referred to in correspondence with the Inám Commissioner as "the third life." He would not agree to enfranchise, and the villages were, therefore, confirmed by the Inám Department for his life only.

7. The Board cannot find any grounds for recommending that Boojanga Row's application to be considered part of the third life should be acceded to.

Read also Petition No. 1,974 of 1865.

No. 157.

ORDER THEREON, 13th November 1865, No. 2,747.

Land Revenue

1. The Governor in Council feels satisfied that the Deed of grant in favor of Butcha Row was intended to secure the Shrotriem to the family for three lives only, and not for three generations.

2. The second of the lives, that of Sheshagiri Row, a single individual, is expressly mentioned in the Sunnud. The third and last life was that of Mysore Soobba Row, and on its expiration the Shrotriem lapsed to Government.

3. The decision arrived at in the case of Venkata Lutchmiah's descendants, and referred to by Soobba Row's surviving brother, Boojanga Row, was founded on no authoritative exposition of Hindu Law, and could not be held to bind Government in the present case; even if the circumstances involved were precisely similar, Boojanga Row's claim to the Shrotriem is inadmissible.

(True Extract.)

(Signed) W. HUDLESTON,

Acting Secretary to Government.

To the Board of Revenue.
,, the Petition Department.
Exd. S. T. Augustin.

Board Pms 18th Dec 1865, 6614.

The facts of the case are stated clearly & correctly in the A. Collector's letter to the Board.

The lands granted in 1842 to Butcha Row were, according to the Sunnud, to be continued after his demise to his second son, Sheshagiri Row & after him to Sheshagiri Row's nearest heir.

Sheshagiri Row left 2 sons. The eldest died on the 27th July in 1861. The younger now carries the lands as undivided brother of the

deceased he inherited jointly
with him, & as much
"nearest heir" as he was, so
that the estate ought to be
continued to him.

I have put up the papers
relating to the case of a
grant made to Venkata
Lutchmiah on the 7th Feb
1826. which seems to be very
similar.

In that case the Court
makes over the land "to
Venkata Lutchmiah & his
two next heirs in succession".

Venkata Lutchmiah
died in 1839 leaving 3 sons,

V. de Court

Ex Mun Cons
20th Oct 1848
1155

Lutbrah, Boriah & another,
The Board hastily allowed
the estate to be registered in
the names of all 3.

In 1841 Lutbrah died. The
Board & the Collector then
recommended that the
estate should be registered
in the name of Boriah, the eldest
son, with the distinct under-
standing that he was the
third life & that the estate
would revert to Govt on his
death.

Boriah & his two other co-heirs
did that the term "two next
heirs" should be taken as
meaning according to Hindu

law 2 generations, & not as
meaning 2 lives. They also urged
that Subbrah had adopted
his youngest brother's son Venka-
tapaty, & that accordingly it
was Venkapaty who ought to
succeed him as third life.

The Court of Directors
intimated that they desired
the question to be settled in ac-
cordance with Hindu law,
& the final decision of gov^t
was given in 1848 in the
following words:

"The Governor in Council
having therefore in view the in-
structions of the Hon^{ble}
Court conceived that under

Ex. Mun. Cons.
20th Oct 1848
No 1155

"Hindu law C. Venkata Subbami-
ah, being the first life, has 3
sons (an undivided Hindu
family) would be regarded &
are the second life, & that
C Venkapaty, whether he
was formally adopted by his
deceased uncle C. V. Subbrah
or not will be the 3rd life,
if he survives his father &
living uncle"

The Cowles or sumnais
for all grants of this kind
^{from the year 1800}
~~were~~ drawn out in accor-
dance with ^{precedents} ~~form~~ sanctioned
by Sir Thos Munroe after

careful deliberation. The same words therefore must be taken to have the same meaning in different summs.

Hence I consider that the decision quoted above, (which was made after Butcha Row's death,) settles the question as to whether both Cheshaugen's sons must be recognized as his "nearest heir," or not.

The Board, however, have been unable to find any grounds for "recommending that Boofanga Rows' applicants to be considered part of the 3rd wife should be acceded to."

Orders are requested on this point.

1. 11. 65 J. H. J. J.

L. H.

for Oct 1842

c3 Nov 105 R.W.

by Miss - Frederick Phillips
1842
The news taken

Bds nos: 18 abt 65. N° 3007.

I have carefully perused the papers
circulated with the above nos: of the
Bds of Rev, and concur with the St. that
no sufficient grounds exist for saying
that Boojanga Row's life is to be con-
sidered a part of the third life as
W. Batchelor Row. This man was held.

The Shrotrun sent to Batchelor Row
1842, was for three lives. His own life was
the first; that of his second son was
the second; that of a son of the latter
was the third.

The third life is a lapse by death on
the 27 August last.

But Boojanga Row, a brother of the
late third holder, urges that, because
he and the deceased were living in
an undivided family, - no lapse
of the third life can occur whilst he,
Boojanga Row, is alive.

The case of Luchmiah is which

The Pros. of 10th Decr 1848. have
reference, ought to have been disposed
of according to the principles of Hindu
Law, but there is nothing to show that
any such formal, deliberate decision
was passed.

On the contrary, it is clear that the
persons interested in the point arising
out of Kuchumak's case, could not & did
not bring the matter into the courts,
as the late Court of Directors had supposed
they should do, in order to get the point
authoritatively settled.

The Pros. themselves settled it. See
para 25 of the Pros. above quoted.
The Pros. have simply said that they
"conceive" that under Hindu Law "three
sons being an undivided Hindu family
^{and are} would be regarded as the second life".
They have not however given any au-
thority of law for the idea so conceived
and altho' at that time, it would have
been sufficiently easy to have obtained

the Hindu Pandits of the Court at Calcutta; who
were not then the able divines we have
known them more recently to be; - as such
evidence was not.

I am therefore, reluctant to believe that
there has been laid before Pros. any such
authoritative exposition of the Hindu Law
bearing on this point raised in the Kuchumak
matter, as should have been put in the
present case, especially since that the two
matters are in all respects similar.

To deal then with the claim of the
Sethness Bhojappa Row: - the Shrotrman
produced to ask Balappa Row was precise
in the understanding clearly stated in the
deed prepared by the Ag. Puri (son of
Cuddappa (Mr. W. H. Arbuthnot)) that after
his (Balappa Row) demise it would descend
"to four second son Shashagiri Row and
his nearest heir to be held by him & his heirs."

If we are to accept the meaning
of heir to indicate an entire
generation, it seems to me that the
latter word would have been used.

and as it was not covered, my
purpose is, that the foot are now
left to receive back what they so
liberally alienated for the three lives
we, in rather a short period, have acci-
dentally fallen in.

3 Nov 65

I feel satisfied with all that was
intended in the case of Butcher Row
was to give him a Shostin for three
lives, his own & two others - One of
those lives - that he had the individual
Shostagin Row - is expressly named
in the Summud. The three lives have
expired and the Shostin has lapsed -

Shostagin Row's death in 1861
should have been reported when the
Shostin would have been regis-
tered in the name of Butcher Row &
this question could hardly have arisen
GP

N^o 2747

13th Nov 65

Read Proceedings of the Board of Revenue
18th October 1865. N^o 6,614.

Read also Petition N^o 1974 of 1865

1. The Governor in Council
feels satisfied that the
~~intention~~ deed of grant
in favour of Butcher
Row was intended to
secure the Shostin
to the family for
three lives only, not
for three generations.
2. The second of the
lives, that of Cheshagin
Row, a single individual,
is expressly mentioned
in the Summud. The
third & last life was
that of Mysore Butcher
Row, on its expiration
the Shostin lapsed
to government.
3. The decision arrived

at in the case of Venkata
Lutchmia's descendants,
referred to by Lotta
Row's surviving brother,
Bozanga Row was
founded on no au-
thoritative exposition
of Hindu law, & could
not be held to bind
government in the pre-
sent case, even if
the circumstances in-
volved were precisely
similar. Bozanga Row's
claim to the Chrothum
is inadmissible.

J. H. J. G.

Board of Queensland with any enclos
Petitioner Dept. S. in Dec 15 1860

15-2-12 ✓

Revenue 1865
Pro: of Govt for 1865

No. 2747

Pro: of the Madras Govt

Dated 10th Nov/65

Disallowing the
claim of Boojangal Row
to the Shareem granted to
Patcha Row, later Sheristadar
of Cuddalore as being a
member of the third genera-
tion.

No. 156457

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