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MADRAS RECORD OFFICE

Government of Madras

Revenue

DEPARTMENT

G.O. No. <u>2695</u>	Press <u>MS</u>
B.P. No. <u>262-253</u>	MS
Dated <u>14-11-</u>	105 <u>1867</u>

Not to be folded or roughly handled

No. 252.

Read the following paper from the Acting Collector of South Canara, to the Secretary to the Board of Revenue, dated 29th October 1867, No. 7,040.
Read the following paper from the Acting Collector of South Canara, to the Secretary to the Board of Revenue, dated Mangalore, 3rd August 1867 ;
forwarded with reference to their Proceedings, dated 11th June 1867, No. 3,573 :—

Tabular Report on a lapsed Inam in the District of South Canara.

No.	Talook and Village : extent and value of the entire Inam.	When and by whom granted : name of the original grantee : Sanads and other documents in support of the grant.	Nature of the grant, custody of 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 original grantee.	Share enjoyed by the deceased, and that held by other members.	Family left by the deceased, and name and age of the parties, their circumstances, and the means of subsistence possessed by them.	Age.
1	2	3	4	5	6	7	
1	This allowance was formerly paid by deductions from the heriz of the following lands :— Out of the land Muli No. 77, ss. A. P. situated in the Puttige village and Magani, in the Mangalore talook, and registered in the name of Channarayana Chouter ... 314 6 Out of the land Muli No. 24, of Biluvayi village, of the said Magani, and registered in the name of Channarayana Chouter ... 401 14 Out of the land Muli No. 16, of Kadandale village and Magani, Mangalore talook, registered in the name of Chikkaraya Chouter ... 77 6 10 793 12 0	The late Hyder Ally, in an Order dated the 11th Jeshtha Shudh, of the year Sarvadiari, (A. D. 1768,) issued to one Sheikh Ally, who was then exercising rule over the Mangalore division, directed that eleven Maganies of the late Hantwal, and Hekal talooks, belonging to the Chouter, should be resumed, and a sum of Hoons 300 (Rupees 1,500) paid to him. Subsequently, a sum of Hoons 155-1-8 was added to the above as Shamil, making in all Hoons 455-1-8, (Rs. 1,8-0-9-7). During Tipoo's government, however, a sum of Hoons 300 was resumed, leaving only a balance of Hoons 155-1-8, (Rupees 629-9-7,) which was continued to the Chouter. Since the assumption of the government by the Honorable Company, the difference in the price of rice, &c., was added to the above, and a sum of Hoons 138-4-6 (Rupees 793-12-0) has been paid.	Granted for the support of the family of the Poygar.	Chendra Shekkara Chikkaraya Chouter, died 31st January 1867. The original Inam holder, at the commencement of the Honorable Company's Government, was Chendra Shekkara Chikkaraya Chouter, to whom the last holder is stated in certain old accounts to be grandson. He was, however, only made a member of the family by adoption, and in his adopted capacity, stands in the relation of grand-nephew to the holder at the commencement of the Company's Government, as the adoption was made by the latter's sister's daughter.	The full amount of Rupees 793-12-0 enjoyed by the deceased.	Family of the deceased. Years. 1. Madunuma, deceased's 1st widow ... 30 0 2. Sankamma, deceased's 2nd widow ... 28 0 3. Kusammaji, daughter of the 1st ... 18 0 4. Padmaravi, daughter of the 2nd ... 16 0 5. Chennamma, sister of the 4th ... 12 0 6. Infant daughter of the 3rd ... 0 3 7. Rajanna, son of the 4th ... 0 5 The following persons also claim to be members of the family by adoption :— 1. Unyamma, (female) ... 40 0 Her children. 2. Padmaravi, female ... 14 0 3. Kunyanna ... 12 0 4. Patchappa ... 8 0 5. Shantappa ... 3 0 Besides the Inam, the family possess lands yielding an income of Rupees 603-7-7.	

*Proceedings of the Madras Government, Revenue Department,
14th November 1867.*

Recommendation of the Collector, and the grounds on which it is made.

1. This Inam was entered as Case No. 2 in a statement forwarded to the Board on the 10th August 1854, under the head of "Personal Grants," and is a permanent hereditary allowance paid in cash from the Public Treasury under the authority of Board's Proceedings, dated the 11th September 1854.

2. *Imprimis*, this being a money pension, not Inam land, I am in doubts whether the Board will think that it should be continued or not under the rules marginally noted; but in case the Board should be of opinion that it should be continued to adopted heirs, not even remotely connected with that of the original holder, I beg to submit the following statement of the case:—

3. Chendra Shekhar Chikkaraya Chouter, who was the incumbent at the time the above statement was forwarded, died on the 31st January 1867, without leaving any male issue. The peculiar circumstances under which he had himself succeeded to the dignity of the Polygar render succession to him a question of considerable nicety, and the following brief history of the family would not, therefore, be out of place:—

4. The original Polygar, known by the name of Chouter, is said to have been of the Jain Kshetriya caste, and the law of succession prescribed for his family appears to be that of "Aliya Santana" which prevails in this district, and by which the inheritance devolves on the female line. From a certain old record of the family it appears, accordingly, that twenty-one individuals succeeded to the rank of "Chouter" regularly, according to the above rule; but this rule does not appear to have since been observed with the same strictness with which it was followed before, inasmuch as the next three successors of the 21st incumbent are stated to have been his own sons; the succession as this part of the line appears, therefore, to have been regulated by the "Makkala Santana" rule (that is, inheritance from father to son); but again, the 25th incumbent was a son of the 22nd, 23rd, and 24th incumbents' sisters' daughter, and considered in his relation to the 22nd, 23rd, and 24th incumbents, he seems to have succeeded rather according to the "Aliya Santana" system. There has thus latterly been no definite rule of succession in this family.

5. At the death of the 25th incumbent in 1833, there were only three members of the family living; namely, his mother Akkaya, her sister Siddamma, and her brother Chendraya Ballala. As the latter, who was the only male member in the family, had been already installed in another dignity known by the title of "Ballal," and the two sisters had no children living, Akkaya, who was the elder of them, adopted from the family of one Konde Manjappa Shetty, a boy named Gumman, and constituted him successor to the 25th incumbent, under the title of "Chikkaraya Chouter," with the view of perpetuating the family of the Polygar.

6. The adoption of this individual by Akkaya was objected to by Siddamma and Chendraya Ballal, who, it appears, were in favor of bestowing the dignity upon a different person. Akkaya died shortly after the adoption, and the rights of the adopted Chikkaraya Chouter being disputed, the then Collector Mr. Viveash directed the allowance payable to the Polygar to be held in deposit. Chikkaraya Chouter thereupon presented a petition to the authorities proposing to settle the dispute by the decision of a Punchayet, and Siddamma and Chendraya Ballala, the opposing parties, having consented to this arrangement, the aforesaid Collector, Mr. Viveash, passed orders on the 14th January 1835, for convening the Moktessors (principal inhabitants) of the twelve Maganies, which had formerly formed the dominion of the Polygar. An assembly of the said Moktessors was accordingly convened, and a decision was recorded on the 11th March 1835, which bears the signature, among others, of Chikkaraya Chouter himself. By this decision Chikkaraya Chouter was recognized as successor of the 25th incumbent; but it was provided that after his death, the inheritance should devolve upon a girl named "Unyamma" (selected from the same tribe as that of the Chouter's family) and her posterity, the said girl having been eventually constituted, or rather accepted as heir by the discontented parties, Siddamma and Chendraya Ballal.

7. The decision was communicated to the Collector, and the Officer then in charge of the district directed, under date the 7th April 1835, that the Punchayet's decision shall be conformed to. From this period, the allowance attached to the Polygar was paid uninterruptedly to the said "Chikkaraya Chouter" up to his death in January last.

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14th November 1867.*

8. The succession to the deceased is now disputed between the aforesaid Unyamma, to whom the inheritance had been secured by the decision of the Punchayet in 1835, and Rajanna, an infant son of the deceased's daughter, who is set up by his guardians as the lawful successor of the deceased under the "Makkala Santana" rule.

9. Unyamma contends that, like the deceased Chouter, she was also adopted into the family by Siddamma and Chendraya Ballal, according to the "Aliya Santana" rule, and urges that her title to succeed the deceased is established by the decision of the Punchayet above referred to. The guardians of the infant son of the deceased's daughter, on the other hand, allege that, from the 22nd incumbent, the succession to the rank of "Chouter" has been regulated by the "Makkala Santana" rule, (inasmuch as the 22nd, 23rd, and 24th incumbents were the sons of the 21st, and the 25th incumbent was also, they plead, allowed to succeed to the dignity, not because he was the grandson of the 24th incumbent's sister, and, as such, the legal heir to the 24th incumbent under the "Aliya Santana" law, but because the 24th incumbent had specially constituted him his heir, in the absence of male issue for himself); and they, therefore, insist on the present succession being also regulated by the same law. They further contend that the decision of the Punchayet, recorded in 1835, is an useless document, as the Collector had no authority for convening the Punchayet, and the deceased Chikkaraya Chouter was but a minor when he affixed his signature to the document. They deny also the adoption of Unyamma into the family.

10. The aforesaid infant, son of the deceased's daughter, has been actually installed in the dignity and rank of "Chouter," by almost all the Moktessors having the right to participate in the ceremony.

11. As the allowance is payable to the lawful successor of the Polygar, and as, under the foregoing circumstances, it is dubious which of the two parties has the legal right to succeed to the deceased, the late Acting Collector, Mr. Whiteside, directed the parties to have their respective rights established by a civil suit, before the allowance attached to the same could be paid to either of them.

12. The Tahsildar reports that, since this order was passed, each of the contending parties has applied to the Civil Court for a certificate under Act No. XXVII of 1860, and that one of them (Unyamma) has further moved the Court to put her in possession of the property of the deceased under Act No. XIX of 1841, but that no regular suit appears to have yet been instituted by either of the parties.

13. I have the honor to append a copy and translation of Mr. Whiteside's order, because I think it is an incorrect order, which the Board may be disposed to cancel, as I am not competent to do so myself.

14. Mr. Whiteside says in this order, both parties seek the Tudsik, and that this is a question of right for the decision of which the parties are referred to the Civil Courts. In my humble opinion, the Civil Courts have no jurisdiction in the matter of Tudsik, though they have with reference to the succession to any private property there may be.

15. I do not know whether, in the event of my view being held correct, the Board may desire to await the Civil Court's decision on the succession to the private property, and, considering the somewhat evenly-balanced circumstances of the case, recommend that the Tudsik should be conferred on the same individual, or propose that the Inam should be disposed of at once, irrespective of any suit that may or may not hereafter be filed.

16. In the latter case, I am of opinion that Unyamma has the best claim to the Government liberality.

17. Though not a blood descendant of the original Inamdar, for there are said to be none such in existence, she is a member of the same clan or Gotra, whereas the deceased Inamdar and his now claiming descendants are aliens, not even thus distantly connected with the old family. Unyamma is also the reversionary heir named by the same general voice that all agreed to abide by, the Punchayet, and on the mutually admitted authority of which it was that the late Inamdar was, on this condition of reversion, given a life-interest only in the estate. If the late Inamdar's adoption had been legal, it might have been urged that it conferred rights on the heirs of his body

*Proceedings of the Madras Government, Revenue Department,
14th November 1867.*

also; but that the adoption was opposed to the rules of the family, is clear from the above history of its descent, as well as from the fact that the Punchayet decree ignored its legality providing for the succession on his demise; and the object in view would appear to have been the reversion to one adopted from the same clan or Gotra as the old family of Chouter, in preference to the descendants of a perfect stranger.

18. I am of opinion, therefore, that, if the Inam is to be continued, the order of my predecessor should be qualified, and that, in accordance with the Punchayet decree, the Inam should, in the person of Unyamma, revert to one belonging to the same clan as the original family of Chouter and adopted.

19. Unyamma is a woman aged forty. Females have formerly succeeded. She has one daughter and three sons.

Translation of an Order passed by the Acting Collector, Mr. Whiteside, on a tabular statement submitted by the Tahsildar of Mangalore, under date the 11th March 1867, in regard to the Mudbidry Chouter's Inam.

The two widows of the deceased state that, as the dignity of Chouter has descended in the "Mackala Santana" line from the 22nd incumbent, and the deceased's second widow's daughter's son, Rajanna, has likewise now been installed, the Tusdik should be paid on his account to the first widow. In opposition to this, Unyamma states that the Tusdik should be paid to her in pursuance of the decision formerly passed. This being a question of right, the Collector declines to interfere. Both parties should speedily institute a civil suit and produce a decree. The party who may appear from that decision to be the true heir, will be recommended to the Board, with a view to the allowance being paid to that party. Until that time, the amount of the Inam is hereby ordered to be held in deposit.

13th April 1867.

(Signed) W. S. WHITESIDE,
Acting Collector.

Submitted to Government, with the Board's recommendation that the allowance, which is hereditary, and was granted to the family in 1768 as a compensation for land resumed, be continued, as proposed by the Collector, in the name of Unyamma.

No. 253. ORDER THEREON, 14th November 1867, No. 2,695.

Miscellaneous.

The Board's recommendation is approved and sanctioned.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue.
,, the Accountant General.

Exd. S. T. Augustin.

34

Rev. DEPARTMENT.

No. 3007.

~~From~~ Proceedings of the Board of Revenue

Dated 29th October, 1867.

FOR ORDERS.

The change in the system of succession to this Inam, has been rather inimical to the reversionary interests of the poor, who might, perhaps, have come into possession of it by descent in 1833, had not an adoption been made. But it is now too late to consider that point. As regards a successor on the present occasion, I consider

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be recognized.

W.D.K.

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to succeed to the dignity, not because he was the grandson of the 24th incumbent's sister, and, as such, the legal heir to the 24th incumbent under the "Aliya Santana" law, but because the 24th incumbent had specially constituted him his heir, in the absence of male issue for himself; and they, therefore, insist on the present succession being also regulated by the same law. They further contend that the decision of the Punchayet, recorded in 1835, is an useless document, as the Collector had no authority for conveying the Punchayet, and the deceased Chikkaraya Chouter was but a minor when he affixed his signature to the document. They deny also the adoption of Unyamma into the family.

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14. Mr. Whiteside says in this order, both parties seek the Tusedik, and that this is a question of right for the decision of which the parties are referred to the Civil Court. In my humble opinion, the Civil Courts have no jurisdiction in the matter of Tusedik, though they have with reference to the succession to any private property. I do not know whether, in the event of my view being held correct, the Board may desire to await the Civil Court's decision on the succession to the private property, and, considering the somewhat evenly-balanced circumstances of the case, recommend that the Tusedik should be conferred on the same individual, or propose that the Inam should be disposed of at once, irrespectively of any suit that may or may not hereafter be filed.

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ENCLOSURE No. 1.

Translation of an Order passed by the Acting Collector, Mr. Whiteside, on a Tabular Statement submitted by the Tahsildar of Mangalore, under date the 11th March 1867, in regard to the Mudbidry Chouter's Inam.

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13th April 1867.

(Signed) W. S. WHITESIDE,
Acting Collector.

(True translation.)

(Signed) H. S. THOMAS,
Acting Collector.

Submitted to Government, with the Board's recommendation that the allowance which is hereditary, and was granted to the family in 1768 as a compensation for land resumed, be continued, as proposed by the Collector, in the name of Unyamma.

(True Copies and Extract.)

To the Secretary to Government, Revenue Department.

Sub-Secretary.

Copy to the Acting Collector of South Canara.

Erd. J. Wright.

Recommending to Government the continuance in the name of Unyamma of allowance enjoyed by late Chendra Shekara Chikkaraya Chouter in South Canara district.

No. 7,040.

Dated 29th October 1867.

PROCEEDINGS OF THE BOARD OF REVENUE,

No. 2003.

1867.

Department.