M.R.O. I—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 130 Press Mis.

264-65
Dated 25-1-1820 N.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 25th January 1870.

No. 264. Read the following Proceedings of the Board of Revenue, dated 14th December 1869, No. 9,144 :—

Read the following paper from the Collector of North Arcot, to the Acting Secretary to the Board of Revenue, dated Chittoor, 27th October 1869.

Statement of lapsed Service Yeomiah recommended for renewal in the district of North Arcot.

Number	Talook and village, extent and value of the entire Inam.	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 original grantee.	Share enjoyed by the deceased, and that held by the other members.	Family left by the deceased, name and age of the parties, their circumstances, and the means of subsistence possessed by them.
1	2	3	4	5	6	7
567	Ready-money allowance of Rupees 44-4-0, for defraying the expenses of Jainooddin Alli Khan Musjid and for the subsistence of Mouzan.	As per Sunnud of Nabob Wallajah, dated 20th Mohorum, Hiziri 1204, granted to Mahomed Hashoom.	Service Yeomiah for defraying the expenses of the Musjid, and for the subsistence of Mouzan.	Shah Cossim Hussain died on the 15th January 1869. Grand son of the sister to the original grantee.	1. Bunkor Hussain...Rupees 33-8-0 per annum 2. Rahimna Bibi ,, 44-4-0 do. 3. Shah Cossim Hussain ,, 44-4-0 do. (deceased.)	Syed Abdul Kader, brother's son, age 24, employed in the Arcot Railway Station, on a salary of Rs. 10 per mensem.

Remarks.—The full allowance originally granted for this institution was Rupees 177. It was subsequently subdivided amongst the three persons named in column 6. Of these, Shah Cossim Hussain, who was in the enjoyment of Rupees 44-4-0 per annum, as per Extract from Minutes of Consultation, dated 31st October 1848, No. 1,188, communicated in the Board's Proceedings, dated 6th November 1848, died on the 15th January 1869 at Avalcondah.

The allowance of the deceased is now claimed by the three following individuals :—

First, Shargadi Bibi, residing at Avalcondah, states that as she is the Nicka wife of the deceased Shah Cossim Hussain, and has four children by him noted in the margin, the allowance in question should be continued in the name of her infant son, Syed Hyder Hussain, now 8 months old, and that she should be permitted to have the service performed through a Naib. In reference to this claim, the Tahsildar of Arcot reports that two witnesses of Avalcondah, one of whom is the brother of Shargadi Bibi, and the other not a Yeomiahdar, deposed that they were present at the Nicka marriage of Shah Cossim Hussain with Shargadi Bibi eleven years ago, and that it was *a bona fide* Nicka marriage. These two witnesses receive no allowance from Government, and the evidence of a relative cannot be depended upon; while the credible evidence of other Yeomiahdars might have been produced. Two other witnesses of Arcot deposed that they had heard Shah Cossim Hussain say in his life-time that Shargadi Bibi was his Nicka wife, but they were not personally present at the marriage. Thus the evidence of the 4th witness adduced by Shargadi Bibi is not very conclusive as to the fact of her Nicka marriage, and her claim should therefore be rejected.

Daughters
1. Amin Bibi, age 9 years.
2. Ahomed Bibi ,, 7 ,,
3. Patoom Bibi ,, 4 ,,

Son.
4. Syed Hyder Hussain, age 8 months.

The second claimant is Syed Abdul Kader, the son of the deceased's younger brother. He claims the allowance on the ground that he performed the obsequies of the deceased, and states that Shargadi Bibi, the first claimant, is not the widow of the deceased Shah Cossim Hussain, either by regular or Nicka marriage. That she was his concubine, and

is therefore not entitled to inherit the allowance. The performance of the obsequies by Syed Abdul Kader and his relationship to the deceased has been proved by the evidence of two Yeomiahdars.

The third claimant is Rahiman Bibi, No. 2 in column 6. She represents that Rupees 88-8-0, being a moiety of the whole allowance of Rupees 177, was enjoyed by her husband Thallaballi Shah. On his death, the said moiety of Rupees 88-8-0 was divided into two equal shares of Rupees 44-4-0, and continued to herself (Rahiman Bibi) and Shah Ismail, respectively, under the orders noted in the margin. On the death of Shah Ismail, the allowance was continued to his son, Shah Cossim Hussain, as per Extract from Minutes of Consultation, dated 31st October 1848, No. 1,188. As Shah Cossim Hussain also is now dead, Rahiman Bibi prays that the allowance may be continued in her name. On examining the records, the representations of Rahiman Bibi are found to be correct, but she appears to have no more right to the share of the deceased now than when it was taken from her late husband's allowance and granted to another member of the family. Rahiman Bibi's claim is therefore inadmissible.

1. Government Order, dated 31st December 1842, No. 1,517, communicated with the Board's Proceedings, dated 16th January 1843.
2. Order of the Government of India, dated 20th January 1843.
3. Government Order, dated 17th February 1843, communicated with the Board's Proceedings, dated 23rd February 1843.

On reviewing the claims of the above three individuals, Shargadi Bibi, Syed Abdul Kader, and Rahiman Bibi, the Collector is of opinion that Syed Abdul Kader, the son of the deceased's younger brother, who is competent to perform the service, should succeed to the allowance, and recommends that the Board will be pleased to move Government to sanction the continuance of the allowance of Rupees 44-4-0 per annum, in the name of Syed Abdul Kader, and the payment to him of the arrears from 1st October 1868 to 30th September 1869; the deceased Shah Cossim Hussain having drawn his allowance up to 30th September 1868, and the service having been performed regularly during the intervening year by one Sillaman Khan, a Naib, appointed by the deceased, during his life-time.

In the foregoing Statement, the Collector reports the death of Shah Cossim Hussain who held a fourth share, Rupees 44-4-0, as sanctioned by Government in Minutes of Consultation, dated 31st October 1848, No. 1,188.

2. There are three claimants to the allowance which has now lapsed, viz:—

(1.) Shargadi Bibi, who representing herself as the widow of the deceased, claims his share on behalf of her infant son, Syed Hyder Hussain.
(2.) Syed Abdul Kader, son of deceased's younger brother.
(3.) Rahiman Bibi, No. 2 in column 6 of the Statement, and a holder of one-fourth share.

3. The Board concur with the Collector in regarding the claim of Rahiman Bibi as inadmissible, but they cannot accept his recommendation in favour of Syed Abdul Kader, the nephew of the deceased.

4. Shargadi Bibi alleges that she was the Nicka wife of the deceased Shah Cossim Hussain, and that she had by him four children, the eldest of whom is a daughter nine years of age, and the youngest an only son eight months old.

5. Syed Abdul Kader (second claimant) denies that Shargadi Bibi was the wife of deceased, and asserts that she was his concubine.

6. Under Mahomedan law, continued co-habitation raises a presumption of marriage, even in the absence of the testimony of witnesses. In this case, co-habitation is admitted, and, as far as the Board are aware, it is not disputed that the deceased Shah Cossim Hussain was the father of Shargadi Bibi's four children. There is therefore apparently nothing to invalidate the legal presumption, except the bare assertion of Syed Abdul Kader, a rival claimant. On the contrary, there is, in support of the marriage, the testimony of four witnesses, two of whom were present at the marriage. The other two state that they heard deceased admit that Shargadi Bibi was his wife.

Proceedings of the Madras Government, Revenue Department,
25th January 1870.

7. The Collector has rejected this evidence on the grounds that one of them is related to Shargadi Bibi, and that none of them are Yeomiahdars. It would, no doubt, be an *additional* guarantee as to the truth of their statements if they were Yeomiahdars, but the circumstance that they are not does not, in the opinion of the Board, warrant the rejection of there evidence as unworthy of credit.

8. The Board are therefore of opinion that Syed Hyder Hussain must be regarded as the legitimate son, and as such, the legal heir of the deceased Shah Cossim Hussain; and they accordingly direct, subject to the confirmation of Government, that he be registered in succession to his father, and the allowance of Rupees 44-4-0 per annum be continued to him. During his minority, the allowance will be paid to his mother Shargadi Bibi, who will be required to provide for the performance of the service.

9. The Board sanction, subject to the audit of the Accountant-General, payment of the arrears from 1st October 1868 to Shargadi Bibi who must pay the Naib who has performed the service since that date.

10. The Board note that the date of the original grant as entered in column 3 of the Statement, 20th Mohorum, Hiziri 1204, does not correspond with that entered in the records of the Board's Office which is 24th Jamadusam, Hiziri 1200. The Collector is requested to explain the discrepancy.

No. 265. ORDER THEREON, 25th January 1870, No. 130.

Miscellaneous.

CONFIRMED.

(True Extract.)
(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.
„ the Accountant-General.

Exd. F. R. Bantleman.

Proc. 31 December 1869
17 July
31 October

Rev. 1869. Oct.
Board of Revenue.
MADRAS.

No. 4281.

PROCEEDINGS, 14TH DECEMBER 1869, No. 9,144.

Encl.

Dup. P. 28 Dec. 1869.

Received 28th

DECEMBER.

No. 9,144.

Service Yeomiah,—Share of certain, enjoyed by deceased Shah Cossim Hussain of North Arcot District directed to be registered in name of his infant son, Syed Hyder Hussain, and allowance to be paid to his mother, Shargadi Bibi, during Hyder Hussain's minority,—Payment to her of arrears from 1st October 1868 to 20th September 1869, sanctioned.

No. 130.

Confirmed.

Offg.

26th Jany 1870.

C. Gillanders 28/70 R 20.

Govt. of India.

REVENUE.

To

THE BOARD OF REVENUE.

Dated January, 25th.

Recd.

Encl.

G. O., 25th January 1870, No. 130.

MADRAS.

Nos. 994-995.

Proposed Service Yeomiah to North Arcot.—Is registry in the name of Syed Hyder Hussain, the son of the deceased incumbent, confirmed.