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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. / B.P. No.	362	Press / Mis.
Dated	18. 3. 1874 ~~196~~ .	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, *18th March* 1874.

No. 176. Read the following letter from J. HUNTER-BLAIR, Esq., Inam Commissioner, to C. G. MASTER, Esq., Acting Secretary to Government, Revenue Department, Fort St. George, dated Madras, 7th February 1874, No. 53 :—

I HAVE the honour to submit the following case for the consideration and orders of Government.

2. There is a village in the district of Kistna, named Ayanavol, which was granted as Inam for the service of Cazy. The Inam is valid, and was confirmed as such by the Inam Commissioner in 1871. The question is to whom the title-deed is to be granted.

3. Up to 1835, the Inam was enjoyed, and the Cazy's service performed by the grantee's family, when a vacancy having occurred by the death of the then incumbent (Mahomed Sahib), a stranger (Meer Yakhuballi Sahib) was appointed, under the sanction of the Judges of the Provincial Court, to act "as Cazy until one of the sons of the late Cazy shall have become competent by age and learning to fill the situation." Again a vacancy occurred in 1852, when the Sadr Court appointed one Raza Hussain Sahib, the son-in-law of the Cazy who died in 1835, to act as Cazy, and to enjoy all the emoluments of the office excepting the Inam village of Ayanavol which was allowed to remain with the original family for their support, and directed that if, within ten years, none of the late Cazy's sons proved competent to fill the office, the Inam also should be transferred to the person performing the service. Nothing further, however, was done at the expiration of the ten years. Raza Hussain Sahib, who was appointed to act, died in 1867, and Regulation III. of 1808 and Section 3, Regulation VII. of 1822, which governed the appointment of Cazies having been cancelled by Act XI. of 1864, none was afterwards formally appointed as Cazy, and the Inam under dispute continued in the enjoyment of the original family up to the date of the Inam settlement which took place in 1871.

4. Under the circumstances of the case, the Inam Commissioner Mr. Carmichael confirmed the Inam for the Cazy's service, and issued a title-deed in favour of "the Cazy for the time being," without entering any name in it, and sent it to the Committee appointed under Act XX. of 1863. He remarked that it was for them to decide what action to take in regard to the possession of the village.

5. Subsequent to the issue of the title-deed, the Committee appears to have made over the title-deed to one Rusta Malli Sahib, the son-in-law of the late Raza Hussain Sahib, who was appointed by the late Sadr Court in 1852. By the strength of the title-deed, he managed to obtain possession of the village from the original family, who now appeal against Mr. Carmichael's decision, and contend that the title-deed should not have been forwarded to the Committee appointed under Act XX. of 1863.

6. Mr. Robinson, who reviewed the petition, was of opinion that "Act XX. of 1863 is not applicable to endowments made for Cazy's Inam, and that the delivery of the title-deed to the Committee subsisting under that Act was an error. The Act clearly applies only to those religious or charitable institutions as were governed by Regulation VII. of 1817, and the services of the Cazy were never super-

intended by the Board under that Regulation;" and he accordingly referred the petition to the Collector for report.

7. The Collector states that petitioners (the sons of the Cazy of 1835 and other members of his family) were in possession of the village till the Committee gave the title-deed to Rusta Malli Sahib, and that one of the claimants, who is the son of the Cazy of 1835, is now doing duty of Cazy (although he was not formally appointed by anybody, none being competent to so employ him), and that he is willing to perform the duties, or get them performed in future.

8. Under all the above circumstances of the case, I am of opinion that the delivery of the title-deed to the Mahomedan Committee was, as observed by Mr. Robinson, an error. By this, the petitioners have been dispossessed of the village which they have so long held. The title-deed has been now recovered, and is in my possession, and I beg to recommend that it may be granted to the petitioners who were actually in possession of the Inam when it was settled by the Inam Commissioner, leaving them to recover possession of the Inam through a Civil Court.

No. 177. ORDER THEREON, 18th March 1874, No. 362.

Miscellaneous.

THE Government resolve to request the opinion of the Advocate-General on the point here raised whether the endowment or Inam in question falls under the provisions of Act XX. of 1863. It is observed that when this Act was passed, Regulations III. of 1808 and VII. of 1822 relating to the appointments of Cazies were still in force. They were repealed by Act XI. of 1864.

2. The preamble to Regulation VII. of 1817 speaks of "assignments of land . . . . . for pious and beneficial purposes," and the superintendence of such is, under Act XX. of 1863, now vested in certain Committees. The duties of a Cazy are recited in Regulation III. of 1808, and include the performance of religious acts.

3. The correspondence which has passed on the subject of this Inam will be forwarded, in original, to the Advocate-General to be returned with his reply.

(A true Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

To the Advocate-General, through Government Solicitor,
with Memorandum from Inam Commissioner,
dated 16th February 1874, No. 66, and its enclosures.
,, the Inam Commissioner.

Exd. F. R. Battleman.

To

THE ADVOCATE-GENERAL,
&c., &c., &c.

Dated March 18th.

Recd. *Encl.*

G. O., 18th March 1874, No. 362.

MARCH.
Nos. 176-177.

Certain Cazy Inam Village in Kistna District.—Requests Advocate-General's opinion as whether the endowment of — falls under the provisions of Act XX. of 1863, and forwards correspondence on the subject, with observations.

Misc

Revenue Department.

No. 362

PROCEEDINGS *of the* **MADRAS GOVERNMENT.**

Under date the 18th March 1874.

Read the following Letter from the Inam Commissioner.

Recommending that the Title deed of certain Cazy Inam Village in Kistna district be delivered to the descendants of the original Inamdar } H. E. / 7th February 1874, No. 53

The Government resolve to request the opinion of the Advocate General on the point here raised whether the endowment or inam in question falls under the provisions of Act XX of 1863. It is observed that when this Act was passed, Regulations III of 1808 and VII of 1822 relating to the appointments of Cazis were still in force. They were repealed by by Act XI of 1864.

The preamble to Regulation VII of 1817 speaks of "assignments of land.... for pious and beneficial purposes" and the superintendence of such is under Act XX of 1863 now vested in certain Committees.

The duties of a Cazi are specified in Regulation III of 1808 and include the performance of religious acts.

The correspondence which has passed on the subject of this inam will be forwarded in original to the Advocate General to be returned with his reply.

To
5 The Advocate General - dd: 26
thro' Government Solicitor
with Memo: from Inam Commissioner dated 16 February 1874
No. 66 and its 5 enclosures.

4 u Inam Commr. dd. 20-3-75
40/3

Exd. JLB

by Act XI of 1864.

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3

Exd. HB

G-O

Title-deed of certain Cazy's Inam village in Kistna D^t to be delivered to the descendants of the original Inamdar

Today

Memo.

Read letter
from the Inam Commissr.
No 53 d/7-2-74.

It appears here that the Cazy of Guntoor &c died in 1852, and his sons being illiterate, the Sudder Court appointed deceased's son in law, who was also to have all the landed emoluments, except one village, wh. was left with the sons for their subsistence — on the condition that this too wd. be forfeited, if the sons remained illiterate at the end of ten years —

2. The son in law died some two years ago — and the old Cazy's son still continuing illiterate, the Mahometan Committee for Religious endowments appd. under Act XX/63 — who were, I contend, the proper persons to regulate the matter, nominated deceased's son in law — and in issuing a Title Deed for the Inam lands attached to the office, I entered the words "For the "Cazy for the time being" and sent it to the Mahometan Commttee aforesaid.

G-O

Title-deed of certain Cazy Inam village in Kistna Dt. to be delivered to the descendants of the original Inamdar

Today

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2. The son in law died some two years ago – and the old Cazy's son still continuing illiterate, the Mahometan Committee for Religious endowments appd. under Act XX/63 – [who were, I contend, the proper persons to settle the matter,] nominated deceased's son in law – and in issuing a Title Deed for the Inam lands attached to the office, I entered the words "For the "Cazy for the time being" and sent it to the Mahometan Commtt. aforesaid.

On a Peti: by the fa-
mily of the origl grantee

3. The honble Mr Robinson, on taking up the post of Inam. Commr, thought my decision wrong, and enquired of the Collr whether the first Cazy's sons were willing to get the work done by Deputy. The reply is "Yes" & it is thereupon proposed to hand the Title deed over to them.

4. Now, I beg a reference to Reg. III of 1808 - which will show what legal & religious duties a Cazy has to perform [Preamble] - that (S. V) the office is expressly declared not to be hereditary - and (Sect III) that none but men of capacity for the duty can be appointed - A deputy for such a post is inadmissible - it wd be a scandal - conceive a Bishop or a Judge without learning - living at home in ease & performing their functions by Deputy!

But in fact it has been so
& is so generally throughout
the Country.

Vi- is a common
practice The Naib
is the real Kazi in most
mosques. - Each performs the
duty & a Naib is not
needed

5. Some years ago - in the forlorn folly that it was recognising the Mahometan religion, our legislators declared that the Govt shd no longer nominate the Cazy - It was also determined that the Govt officers shd no longer guard the assignments of land wh ancient rulers had made for "pious or beneficial purposes". Hence the Mahometan Committees were appd in every district instead.

6. This was Act XX/63. Mr Robinson argues that a Cazy's benefice does not come under this head - that its superintendence was never with the Bd of Revenue under Reg VII/17, and, by consequence, that it is not within the scope of Act XX/63 wh replaced that Regn.

Of this there can be no
doubt & the bearings of the
decision of Mr [illegible]
this direction
At the Mahomedan
Comttee by wh & Law - as
it is the Inam Commr tells
& evidently practice
Kaziship &c were
expressly reserved of the
Sadr Ct - & no other Court
- ony meddled. Had the Law
not been repealed the I Comr
would have referred to the
Court - & I would like
the I Comr in the party to
decide abt a new form
of jurisdiction

7. But let the Preamble to the Regn be read - it distinctly says "all assignments of land for pious & "beneficial purposes" - the Cazy's duties are recited in Reg III/08, and are specifically termed "religious" - as indeed they clearly are; and for the rest - even were it not the law - as I contend it is - for the Mahometan Committee, the leading Moslems of the district, to appt the Cazy & see to the proper superintendence of the landed emoluments, - it is surely the most expedient arrangement.

D E 19/12/74

REVENUE DEPARTMENT. 3/362

C No. 412.

From Chief Commissioner
Dated 7 February 1874.

FOR ORDERS.

I think that in this case the correct course is to issue the Sunnud to Mahomed Murad – as the party in possession at the time – and a member of the Family. The latter says he is acceptable to the Mahomedan com-munity – and certainly they have made no com-plaint to that view

J.O.S.
7-3.

Papers 7/3.

NB

I suppose that we are bound to pay the Income to the person (if there be any) who has been legally appointed to the office of Cazi; and that the fact that ~~the~~ ~~probably~~ ~~another~~ another person & is (as appears to the case) has done the duty & willing to go on with it, does not exempt us from that obligation.

Who then is the person legally appointed? If the Act of 1863 ~~applied~~ to such religious endow[illegible] as those administered by Cazi then the person legally appointed is the one in the case of the deceased ~~office~~ named by the Mahomedan

Committee which is spoken of in the Revd. Memo: as having been "appointed under the Act of 1863"

If the Act of 1863 does not so apply, then ~~there~~ is no person legally appointed, & ~~the~~ ~~unless~~ we may act as we think best in the matter.

The question then is, ~~[illegible]~~ does the Act of 1863 apply, or does it not, to these endowments? And if you are doubtful upon this question (and I do not myself feel able to ~~decide~~ answer it with confidence) it is one upon which we ought to have legal advice

9/362

No. 66.

Official Memorandum.

1. Copy of the Register containing Mr. Carmichael's decision.
2. Petition No. 122 of 1873 presented by Patcha Saheb &c. of the original family with Enclosures.
3. Copy of Mr. Robinson's Official Memorandum dated 30 June 1873 No. 327.
4. Collector's reply thereto dated 22d October 1873 No. 1572.
5. Collector's letter dated 13th Decr. 1873 No. 1886 in continuation of his letter No. 1572.

The papers noted in the margin are forwarded to the Secretary to Government, Revenue Department, as required in his Official Memorandum dated 10th February 1874 No. 23.

Revenue Board Office,
Inám Department,
Madras 16th February 1874

J. Hunter Blair
Inám Commissioner

To
The Secretary to Government,
Revenue Department,
Fort Saint George.

Rev 1874 Depts.

No. 527.

From
The Inam Commissioner

To
The Secretary to Government
Revenue Dept.
Fort Saint George.

Copy sent to Cazy G.O. No 362 - 11 Mar 74

Dated 16th February 1874
Received 17

No 66.
Enclosures 5.

Submitting the papers referred to in his Offl. Memorandum dated 10th February 1874 No. 23.

11
362

No 327

Official Memorandum

Read Petition No. 122 of 1873 presented by Patcha Saheb &c sons and other relatives of late Mahomed Saheb, the Cazy of Ayanavol Jahagir, Kistna District -

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With reference to the letter from this Office dated 16th October 1871 No. 755 and the Inam Commissioners Proceedings which accompanied it, the Undersigned observes that Act XX of 1863 does not apply to Endowments made for the services of Town or Pargana Cazees, that therefore the delivery of the Title Deed issued for the Cazy Inam to the Mahomedan Committee subsisting under that Act was an error. The Act clearly applies only to those religious or Charitable Institutions as were governed by Regulation VII of 1817 and the services of a Cazy were

never

never superintended by the Board under that Regulation. Under these circumstances, the undersigned intends to lay the matter before Government and obtain their orders for the disposal of the Inám. In the mean time, the Collector is requested to recover the Title Deed delivered to the Mahomedan Committee and forward it to this Office.

2. The Collector is also requested to report who is at this moment in possession of the Inám and whether any of the parties in possession of the Inám at the time of the Inám settlement is rendering services of Cazy to any portion of the Mahomedan Community and if not, whether in the event of the Inám being continued to the descendants of the original grantee they are prepared to get services of Cazy duly performed in future.

Revenue Board Office,
Inám Department,
Madras 30th June 1873

(Sig) H. Robinson
Inám Commissioner

To The Collector of the
Kistna District

(True Copy)

J Hunter Blair
Inám Commissioner

III

In No 66 of 1874
Inam Dept

Copy sent to [illegible] Govt.
[illegible] G.O. 367 [illegible]

Rev: 1/527/74

Decision by
Mr Robinson –
Inam Commr –

opy of the Official Memo-
randum from the Ina
ommissioner to the
ollector of the Kistna
t dated 30th June 1873
No 327.

2

the office, the Inam also should be transferred to the person performing the service. Nothing further however was done at the expiration of the 10 years. Raza Huſsain Sahib who was appointed to act died in 1867, and Regul of 1808 and section III Regulation VII of 1822 which governed the appointment of Cazies having been cancelled by Act XI of 1864, none was afterwards 13 formally appointed as Cazy and the Inam under dispute continued in the enjoyment of the original family up to the date of the Inam settlement which took place in 1871.

4. Under the circumstances of the case, the Inam Commiſsioner Mr Carmichael confirmed the Inam for the Cazy's serv and issued a Title Deed in favor of "the Cazy for the time being" without entering any name in it and sent it to the Committee appointed under 13 Act XX of 1863. He remarked that

it was for them to decide what action to take in regard to the possession of the Village.

5. Subsequent to the issue of the Title Deed, the Committee appears to have made over the Title Deed to one Rusta Malli Sahib the son-in-law of the late Raza Hussain Sahib who was appointed by the late Sudr Court in 1852. By the strength of the Title Deed, he managed to obtain possession of the Village from the original family who now appeal against Mr Carmichael's decision and contend that the Title Deed should not have been forwarded to the Committee appointed under Act XX of 1863.

6. Mr Robinson who reviewed the Petition was of opinion that "Act XX of 1863 is not applicable to endowments made for Cazy's Inam and that the delivery of the Title Deed to the Committee subsisting under that Act

was

was an error. The Act clearly applies only to those religious or charitable Institutions as were governed by Regulation VII of 1817 and the services of the Cazy were never superintended by the Board under that Regulation" and he accordingly referred the Petition to the Collector for report.

7. The Collector states that Petitioners (the sons of the Cazy of 1835 and other members of his family) were in 14
possession of the Village till the Committee gave the Title Deed to Rusta Malli Sahib and that one of the claimants who is the son of the Cazy of 1835 is now doing duty of Cazy (although he was not formally appointed by any body, none being competent to so employ him) and that he is willing to perform the duties or get 15
them performed in future.

8. Under all the above circumstances of the case, I am of opinion that the 16
delivery of the Title Deed to the Mahomedan Committee was as observed

by

by Mr Robinson an error. By this, the Petitioners have been dispossessed of the Village which they have so long held. The Title Deed has been now recovered and is in my possession, and I beg to request that it may be granted to the Petitioners who were actually in possession of the Inám, when it was settled by the Inám Commissioner, leaving them to recover possession of the Inám through a Civil Court.

I have the honor to be
Sir,
Your most obedient Servant

J Hunter Blair
Inám Commissioner.

O.M. No. 23

With reference to his letter of 7th Feby inst No 53, the Inam Commr. is requested to send up with as little delay as possible the papers in the case - viz, the Orders of his predecessors, referred to in the present letter, & the subsequent correspondence with the Collr. -

10 Feby '74.

9-2/74

Don't print this.

Revenue 1874 Dept.

No. 412.

From
The Inam Commissioner

To
The Secretary to Govt.
Revenue Dept.
Fort Saint George.

Dated 7th February 1874.
Received 9th "
S.O. No. 362 - 18 Mar/74
No 53

Recommending that Title Deed of certain Cazy Inam Village in Kistna District be delivered to descendants of original Inamdar & requesting orders of Government on the proposition.

With a Memo

1

No 53

Revenue Board Office
Inam Department
Madras 7th February 1874.

From
The Inam Commissioner.

To
The Secretary to Government,
Revenue Department,
Fort Saint George.

Sir

I have the honor to submit the following case for the consideration and orders of Government.

2 There is a Village in the District of Kistna named Ayanavol which was granted as Inam for the service of Cazy. The Inam is valid and was confirmed as such by the Inam Commissioner in 1871. The question is to whom the Title Deed is to be granted.

3. Up to 1835, the Inám was enjoyed and the Cazy's service performed by the grantee's family when a vacancy having occurred by the death of the then incumbent (Mahamed Saheb) a Stranger (Meer Yakhuballi Sahib) was appointed under the sanction of the Judges of the Provincial Court to act "as Cazy until one of the sons of the late Cazy shall have become competent by age and learning to fill the situation". Again a vacancy occurred in 1852, when the Sudr. Court appointed one Raza Hussain Saheb the son-in-law of the Cazy who died in 1835, to act as Cazy and to enjoy all the Emoluments of the office excepting the Inam Village of Aiyanavil which was allowed to remain with the original family for their support and directed that if, within 10 years, none of the late Cazy's sons proved competent to fill