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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.
B.P. No.

1757

Press
~~Mis.~~

Dated 22.11.1876 196 .

Not to be folded or roughly handled

No. 389. Read the following Proceedings of the Board of Revenue, dated 30th October 1876, No. 2,691:—
Read the following paper from W. S. WHITESIDE, Esq., Collector of North Arcot, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Tripati, 4th September 1876.

Statement of lapsed Service Yeomiah recommended for review in the District of North Arcot.

Case Number.	Taking and Value of the annuity.	When and by whom granted; name of the original grantee; Sanads 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 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 of the family.	Famr left by the deceased, and name and age of the parties, their circumstances, and the means of subsistence possessed by them.	Recommendation of the Collector and the grounds on which it is made.
1	2	3	4	5	6	7	8
554	Ready-money allowance of Rupees 23-4-4 per annum for defraying expenses in the Durgah of Hazrat Shair Ally at Arcot, and for the subsistence of the Khadems in the above Durgah.	19th Jamadulaul Hizari 1290, as per sanad of Nawab Wajajah. Name of the original grantee not known.	For the performance of the service of Khadems in the Durgah.	Syed Kallamullah died on the 24th January 1876. Not known.	The deceased was in the enjoyment of the full allowance.	1. Syed Mahomed Ali, aged 46 2. Yemna Bi, concubine of the deceased, aged 50 3. Syed Kader, aged ... 8	Syed Kallamullah, Service, Yeomiah, No. 554, who was in receipt of an annual allowance of Rupees 23-4-4 under the order of Government, dated 21st July 1873, No. 758, died on the 24th January 1876. Syed Mahomed Ally, younger brother of the above-named Syed Kallamullah, and Yemna Bi, who represents herself as the nicks wife of the deceased, claim the allowance enjoyed by the deceased; the former for himself and the latter on behalf of his minor son Syed Kader, aged 8 years. Syed Mahomed Ally, the 1st claimant, states that his deceased brother was not married and that the 2nd claimant Yemna Bi is not the nicks wife of the deceased, but his concubine. He further argues that if Yemna Bi was the wife of the deceased as she now states, his late brother Syed Kallamullah would not have failed to mention her as his heir, nor would he have relinquished his claim for this yeomiah when it last fell vacant in 1873 in favor of himself (2nd claimant) as has been reported by the Collector in the tabular statement embodied in G.O., dated 21st July 1873, No. 758.

An inquiry was instituted into this matter by the Tahsildar of Arcot, and from the records of inquiry received with that officer's arzis, Nos. 117 and 196, dated 31st June and 17th August 1876, respectively, the following facts are elicited:—
Two Services Yeomiahers Hafeza Syed Sadak Hussaini, No. 496, and Syed Ahmed, No. 496, drawing an annual allowance of Rupees 90 and 67, respectively, state that Syed Kallamullah died on the 24th January 1876, and his wife died about 10 years ago; that he left no children behind him; that he kept as his concubine a woman named Yemna Bi, who has now a son aged 8 years, and is residing in the deceased's house. They add also that Syed Mahomed Ally is the brother of the late Yeomiah and performs the service connected with the Durgah.
Mahomed Isak states that he is the only Nimb of the Kaz of Arcot and Ranpet, and, as such, registers all marriages contracted among the Mahomedan community in the above-named towns and adjacent places; that no nicks marriage took place between the deceased and Yemna Bi; that there is no entry made to this effect in the marriage register kept by him; and that he knows Yemna Bi as the concubine of late Syed Kallamullah.
Yemna Bi, the 2nd claimant, states that Syed Kallamullah died 4 months ago; that she is his nicks wife having been so married to him 15 years ago; that she is not his concubine; and that she has a son 8 years old by the deceased.
Four witnesses were examined on behalf of this woman, of whom Gulam Hussain and Husein Ally, Yeomiahers Nos. 497 and 497, and whose allowances have been committed into a grant of land revenue, state that the deceased used to take about with him during his lifetime a boy who, he stated, was his son by his nicks wife, but that neither of them know personally as to whether the nicks marriage took place or not. The other two witnesses Bhandu Bi and Hahner, who are laborers, speak from their personal knowledge as to the nicks marriage of Yemna Bi with late Syed Kallamullah having taken place in Karai village near Ranpet, and add that Ghulam Hussain, Nimb of the Kaz, who is now dead, was present on the occasion.

* No. 1 is in the enjoyment of an yeomiah allowance of Rupees 40-2-8 per annum as per G.O., dated 19th February 1869, No. 430.

*Proceedings of the Madras Government, Revenue Department,
22nd November 1876.*

Recommendation of the Collector and the grounds on which it is made—(Continued)

From the above, though it has not been satisfactorily proved that a *y nicka* marriage took place between the deceased and Yemna Bi, yet all the witnesses and the brother of the deceased admit that Yemna Bi was in the keeping of the deceased Syed Kallamullah, and neither the 1st claimant Syed Mahomed Ally nor the witnesses on his behalf dispute that the deceased was the father of the minor Syed Kader. Under these circumstances, and, with reference to the view taken by the Board of Revenue in paragraph 6 of their Proceedings, dated 14th December 1869, No. 9,144, in a similar case, and approved by Government in their Order, dated 25th January 1870, No. 130, it must be presumed that Yemna Bi was the wife of the deceased, although she was not regularly married, and that her son is the legal heir to succeed to the allowance enjoyed by Syed Kallamullah.

The Collector therefore begs to recommend that the Board of Revenue will be pleased to obtain the sanction of Government for the registry of the allowance in question in the name of Syed Kader, minor son of the deceased Syed Kallamullah, and, as regards the payment of the arrears that may be due from 1st January 1876 up to date of sanction, it is recommended that a moiety thereof may be paid to Syed Kader, and the other moiety to Syed Mahomed Ally the 1st claimant (brother of the deceased), who is now performing the service in the Durgah.

This *yeomiah* of Rupees 23-4-4 a-year for service in the Durgah of Hazarat Shair Ally at Arcot was formerly held by Bi Sahiba Bibi who died in 1873 leaving two sons—

1. Syed Kallamullah.
2. Syed Mahomed Ally.

2. The elder son wished to relinquish his claim to the allowance in favor of his younger brother No. 2; but, as the grant is hereditary, it was decided that it should be registered in the name of the elder son (G.O., 21st July 1873, No. 758). The latter has now died, and the allowance is claimed by Syed Mahomed Ally. His claim is opposed by Yemna Bi, who says she was the *nicka* wife of the deceased. Syed Ally says she was not his brother's wife, but his concubine, and this assertion is supported by three witnesses, one of whom is the Naib Kazi of Arcot, who registers the marriages of Mahomedans. He says Yemna was not married to the deceased, and that he knew her to be his concubine.

3. In support of Yemna Bi's claim there is the evidence of four witnesses. Two of them say the deceased used to take about with him a boy whom he acknowledged to be his son by his *nicka* wife, but they have no personal knowledge of the marriage. Two other witnesses state from personal knowledge that the marriage was performed by a Naib Kazi since dead.

4. According to Mahomedan law continued cohabitation and acknowledgment of paternity raise a legal presumption of marriage and legitimacy. In this case cohabitation is admitted by those who deny the marriage, and there is evidence as to the acknowledgment of paternity. There is also direct evidence in support of the marriage. Adverting to the fact that the deceased formerly relinquished his claim in favor of his brother Syed Mahomed Ally, the latter desires to raise the inference that he would not have done so to the prejudice of a legitimate son. But this is of little weight against the legal presumption and evidence in support of the marriage.

5. The Board think Syed Kader's legitimacy and his claim to succeed to the allowance held by his father should be recognized (*vide* G.O., 25th January 1870, No. 130), in which a similar case was disposed of.

6. The Board further recommend that half of the arrears be paid to Syed Mahomed Ally in consideration of the fact that since his brother's decease he has performed the duties of the office.

*Proceedings of the Madras Government, Revenue Department,
22nd November 1876.*

7. It appears that Syed Mohamed Ally holds an allowance of Rupees 46-8-8 a-year for service in the same Durgah as is referred to in the present case. (*vide* G.O., 19th February 1869, No. 430).

(A true Copy and Extract.)

(Signed) C. A. GALTON,
Acting Sub-Secretary.

No. 390. ORDER THEREON, 22nd November 1876, No. 1,757.

Miscellaneous.

THE Government will not object to sanction the Board's recommendations in paragraphs 5 and 6; although the fact of the deceased having expressed his willingness in 1873 to give up his right in favor of Syed Mahomed Ally notwithstanding the birth of Syed Kader, who must have been then 5 years old, raises a strong presumption in favor of Syed Mahomed Ally.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

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

Exd. F. R. Bantleman.

PROCEEDINGS OF THE BOARD
Read the following paper from W. S. WHITESIDE, Esq., C.
Board of Revenue, dated 21st July 1876.
Statement of lapsed Service Yeomiah r

Case Number.	Taking and Value of the land.	When and by whom granted; name of the original grantee; Name of the grantee 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.	Shan by th ed. of the original of
1	2	3	4	5	6
554	Ready-money allowance of Rupees 23-4-4 per annum for defraying expenses in the Durgah of Hazrat Shah Ally at Arcot, and for the subsistence of the Khadeem in the above Durgah.	Ish Jamadlanell Hkari 1200, as per record of Nawab Wahid Ali. Name of the original grantee not known.	For the performance of the service of the deceased in the Durgah.	Syed Kallamullah, died on the 24th January 1876. Not known.	7

The Collector in the tabular statement embodied in G.O. dated 21st July 1876, No. 768 1876, respectively, the following facts are elicited:—
Two Services Yeomias Hafesa Syed Sadak Hussaini, No. 496, and Syed Ahmed on the 24th January 1876, and his wife died about 10 years ago; that he left no children in the deceased's house. They add also, that Syed Mohammed Ally is the brother of the deceased, and that he is the only Naib of the Kasi of Arcot and Hussaini, an adjacent place; that no nicks marriage took place between the deceased and Yemna Bi as the concubine of late Syed Kallamullah.

Yemna Bi, the 2nd claimant, states that Syed Kallamullah died 4 months ago; that has a son 8 years old by the deceased.
Four witnesses were examined on behalf of this woman, of whom Gulam Hussain ar revenue, state that the deceased used to take about with him during his lifetime a boy nicks marriage took place or not. The other two witnesses Hameed Bi and Hafesa, w Kallamullah having taken place in Kara village near Banipet, and add that Gulam Hussain

* No. 1 is in the enjoyment of an yeomiah allowance

Lapsed Yeomiah in North Arcot of Rs. 53-4-4 per annum.—Sanctioning the continuance of it in the name of Syed Kader, and the paying of the arrears between him and Syed Mahomed Ally.

NOVEMBER.
No. 389-990.

G.O., 25th November 1876, No. 1757.

25th November 1876.

THE BOARD OF REVENUE.

REVENUE.

GOVT. OF 1876: 1000

, 691.

VENUE, dated 30th October 1876.

r of North Arcot, to C. A. GALTON, Esq., Acting Secretary to the
ipati, 7th September 1876.

nded for renewal in the District of North Arcot.

Family left by the deceased, and name and age of the parties, and their circumstances, and the means of subsistence possessed by them.	7	8
1. Syed Mahomed Ally, aged 46, concubine of the deceased, aged 50.		
2. Syed Kader, aged 8.		

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

Syed Kallamullah, Service, Yeomidar, No. 554, who was in receipt of an annual allowance of Rupees 23-4-4 under the order of Government, dated, 21st July 1873, No. 758, died on the 24th January 1876.

Syed Mahomed Ally, younger brother of the above-named Syed Kallamullah, and Yemna Bi, who represents herself as the nicks wife of the deceased, claim the allowance enjoyed by the deceased; the former for himself and the latter on behalf of his minor son Syed Kader, aged 8 years.

Syed Mahomed Ally, the 1st claimant, states that his deceased brother was not married and that the 2nd claimant Yemna Bi is not the nicks wife of the deceased, but his concubine. He further argues that if Yemna Bi was the wife of the deceased as she now states, his late brother Syed Kallamullah would not have failed to mention her as his "wife," nor would he have relinquished his claim for this yeomiah when it last fell vacant in 1873 in favor of himself (2nd claimant) as has been reported by

is of inquiry resolved with that officer's aris, Nos. 117 and 156, dated 6th June and 17th August 1876, drawing an annual allowance of Rupees 90 and 67½, respectively, state that Syed Kallamullah died claiming that he kept as his concubine a woman named Yemna Bi, who has now a son aged 8 years, and that the late Yeomidar and performs the service connected with the 1st claimant.

ch, registers all marriages contracted among the Mahomedan community in the above-named towns and there is no entry made to this effect in the marriage register kept by him; and that he knows Yemna

is nicks wife having been so married to him 15 years ago; that she is not his concubine; and that she is an Ally, Yeomidara Nos. 497 and 437, and whose allowances have been commuted into a grant of land stated, was his son by his nicks wife, but that neither of them knew personally as to whether the laborers, speak from their personal knowledge as to the nicks marriage of Yemna Bi with late Syed Bi as the Kazi, who is now dead, was present on the occasion.

upsec 43-8-8 per annum as per G.O., dated 19th February 1869, No. 430.

Recommendation of the Collector and the grounds on which it is made—(Continued.)

From the above, though it has not been satisfactorily proved that a y. nicka marriage took place between the deceased and Yemna Bi, yet all the witnesses and the brother of the deceased admit that Yemna Bi was in the keeping of the deceased Syed Kallamullah, and neither the 1st claimant Syed Mahomed Ally nor the witnesses on his behalf dispute that the deceased was the father of the minor Syed Kader. Under these circumstances, and, with reference to the view taken by the Board of Revenue in paragraph 5 of their Proceedings, dated 14th December 1869, No. 9,144, in a similar case, and approved by Government in their Order, dated 25th January 1870, No. 130, it must be presumed that Yemna Bi was the wife of the deceased, although she was not regularly married, and that her son is the legal heir to succeed to the allowance enjoyed by Syed Kallamullah.

The Collector therefore begs to recommend that the Board of Revenue will be pleased to obtain the sanction of Government for the registry of the allowance in question in the name of Syed Kader, minor son of the deceased Syed Kallamullah, and, as regards the payment of the arrears that may be due from 1st January 1874 up to date of sanction, it is recommended that a moiety thereof may be paid to Syed Kader, and the other moiety to Syed Mahomed Ally the 1st claimant (brother of the deceased), who is now performing the service in the Durgah.

This yeemia of Rupees 23-4-4 a-year for service in the Durgah of Hazarat Shafr Ally at Arcot was formerly held by Bi Sahiba Bibi who died in 1873 leaving two sons—

1. Syed Kallamullah.
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4. According to Mahomedan law, continued cohabitation and acknowledgment of paternity raise a legal presumption of marriage and legitimacy. In this case cohabitation is admitted by those who deny the marriage, and there is evidence as to the acknowledgment of paternity. There is also direct evidence in support of the marriage. Adverting to the fact that the deceased formerly relinquished his claim in favor of his brother Syed Mahomed Ally, the latter desires to raise the inference that he would not have done so to the prejudice of a legitimate son. But this is of little weight against the legal presumption and evidence in support of the marriage.

5. The Board think Syed Kader's legitimacy and his claim to succeed to the allowance held by his father should be recognized (*vide* G.O., 25th January 1870, No. 130), in which a similar case was disposed of.

6. The Board further recommend that half of the arrears be paid to Syed Mohamed Ally in consideration of the fact that since his brother's decease he has performed the duties of the office.

7. It appears that Syed Mohamed Ally holds an allowance of Rupees 45-8-8 a-year for service in the same Durgah as is referred to in the present case. (*vide* G.O., 19th February 1869, No. 430).

(A true Copy and Extract.)

[Signature]
Acting Sub-Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Collector.

10 19 364/169 204 344 52
 — 25 144/70 — 264 — 68
 — 21 144/73 — 176 — 79

1757
 The Govt will not object to

sanction the ~~Board's~~ recommendations in paras 5 and 6,
 although the fact of the deceased having expressed his
 willingness in 1813 to give up his rights in favor of
 Syed Mahomed Ally notwithstanding the
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147 R. M. & C. 24/11

e. 13. May 76 A. 13. Nov

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Passes 1876. 26/11/76

Board of Revenue,

MADRAS.

PROCEEDINGS, 30TH OCTOBER 1876, No. 2,691.

24/11/76

Encl.

Received
 9. Nov 76

OCTOBER
 No. 2,691.

Yoonish—enjoyed by late Syed Kallamul-
 lah for service in a Dargah in North Arcot
 District.—Stating that Syed Kader's legitimacy
 and his claim to succeed to — should be recog-
 nized; and recommending that half the arrears
 be paid to the deceased's brother, Syed Mahomed
 Ally, who now performs the service in the
 Dargah.

With orders

24/11/76