M.R.O. 1—77,[illegible]—8-5-57.

(1) Number of pages 14

(2) Date of repair 17-5-60

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 570 Press —Mis.—

Dated 8. 7. 1889.

Not to be folded or roughly handled

8TH JULY 1889, No. 570, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Land Revenue), dated 29th May 1889, Mis. No. 3161 :—

Read—statement of lapsed service yeomiah from the Collector of North Arcot, dated 14th May 1889, Ref. on Genl. Eng. No. 2567.

Resolution—dated 29th May 1889, Mis. No. 3161.

Submitted to Government.

2. The Collector's attention is drawn to Board's Proceedings, dated 3rd May 1887, No. 88.

(A true Extract.)

(Signed) M. HAMMICK,
Secretary.

To the Secretary to Government, Revenue Department, with report and enclosure in original.
» the Collector of North Arcot.

ENCLOSURE.

Statement of lapsed service yeomiah recommended for renewal in the district of North Arcot.

1	1	Case number.
2	Ready money payment under beriz deduction system in Veppur village, Arcot taluk.	Taluk and village; extent and value of the entire inam.
3	Granted by the Nawab of Wallajah, 20th Shaban, Higiri 1209 (A.D. 12th March 1795); Sheikh Imam the original grantee as per sanad.	When and by whom granted, name of the original grantee, sanads in support of the grant.
4	The services rendered are— 1. Reading the Koran. 2. Mulla service. 3. Keeping the *masjid* clean. 4. Keeping lamp in the masjid of Syed Muhammad, situated in Peerjathpura at Arcot.	Nature of the grant, charity or service; if service, nature of the duty prescribed by the grant.
5	Sheikh Meeran, fifth in descent from the original grantee, died on the 26th March 1887, Yeomiahdar No. 553.	Name of the last holder, date of his decease, and the relationship in which he stood to the original grantee.
6	The amount of total allowance of Rs. 56-14-2 was enjoyed by 5 persons in 6 shares as shown below. The deceased enjoyed two shares amounting to Rs. 18-15-4. Name. Share. Amount. as. a. r. 1. Muhammad Hussain .. .. 1 .. .. 9 7 8 2. Sheikh Davud .. .. 1 .. .. 9 7 8 3. Alikhan .. .. 1 .. .. 9 7 8 4. Muhammad Ibrahim .. .. 1 .. .. 9 7 10 5. Sheikh Meeran .. .. 2 .. .. 18 15 4 Total .. 56 14 2	Share enjoyed by the deceased and that held by the other members of the family.
7	The deceased has left behind him a widow, Amir Bi, aged, about 31 years, 3 daughters, Jamma Bi, Annija Bi and Azazi Bi, aged respectively, 16, 11 and 9 years, and a divided brother named Abdulla Saib, aged 60 years. The widow and the daughters have no means of subsistence except the grant of the endowment in question. The service is said to be performed by the husband of the eldest daughter as a naib (proxy) on behalf of the widow. Abdulla Saib is a bazaarman living at Vellore.	Family left by the deceased and name and age of the parties, their circumstances, and the means of subsistence possessed by them.
8	Abdulla Saib claims the allowance, having been declared to be entitled to it under the decree of the District Munsif of Arni in Original Suit No. 128 of 1888 on his file. Copy of District Munsif's judgment is enclosed. It is, therefore, recommended that Abdulla Saib may be granted the yeomiah allowance of Rs. 18-15-4 enjoyed by the deceased Sheikh Meeran and his name may be substituted for the latter in the grant. VELLORE, (Signed) W. M. THORBURN, 19th December 1888. Acting Sub-Collector.	Recommendation of the Collector and the grounds on which it is made.

Ref. on Genl. Enq. No. 2567 of 1889.

Submitted to the Secretary to the Commissioners of Land Revenue for favorable consideration.

PALMANER, (Signed) W. J. H. LE FANU,
14th May 1889. Collector.

ORDER—dated 8th July 1889, No. 570, Revenue.

Miscellaneous.

The Collector's recommendation is accepted, but the Government observes that the claim was not one which could be adjudicated upon by a civil court without express authority. This must be given

in the form of a certificate from the Collector; the notification in the District Gazette was not such a certificate as is required by the Act.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Collector of North Arcot.
" the Accountant-General.
Copy to the Judicial Department.
" " Commissioners of Land Revenue.

Original

27-1-08

10-4-75

Govt. of {1889} Madras.

REVENUE.

Issued

Recd. Encl.

G.O., 8th July 1889, No. 570.

JULY.

Lapsed Yeomiah Allowance, North Arcot District.

Collector's proposal to register a — enjoyed by the deceased Sheikh Meeran in the name of Abdulla Saib, accepted, with the remark that the latter's claim to the allowance was not one that could be adjudicated upon by a civil court without express authority from the Collector.

In the Court of the District Munsif Arnis

Friday the 3d day of August, 1888

Present:—

S. Subhier Aurjal
District Munsif

Original Suit No 128 of 1888

Plaintiff
Abdul Sahib

Defendant
Amir Bi Bi

This Suit coming on for final hearing the Court delivered the following Judgment:—

1. This Suit is to establish plaintiff's title to the registry in his name of a $\left(\frac{2}{6}\right)$ $\frac{1}{3}$rd Share of a zeomiah being an annual ready money allowance of Rupees 56-14-2 granted, from the Collections in the Vaju Village, for the performance of Services at the Mosque of Perjatpura in Arcot and to [illegible] Rupees 37-6-4 Arrear

due from 27th March 1887.

2. The plaint sets forth that plaintiff's father who was the registered owner of the said $(\frac{2}{6})\frac{1}{3}$rd share of zeomiah about 10 or 11 years prior to the date of plaint transferred the registry to the name of his son, Sheik Musa Sahib during plaintiff's absence abroad; that this individual was his undivided brother and Deft's husband, that he died issueless on the 26th March 1886; that since then plaintiff has been performing services personally and through deputies; that an application by the plaintiff to register the zeomiah in his name, made to the Collector of the District was opposed by the Defendant that the Collector thereupon —

published a notification in the North Arcot District Gazette of the 1st October 1887 page 240; that he would cause the registry to be [illegible] Defendant's name unless re[illegible]ained by an injunction from a competent Civil Court, that the Defendant being a female is incompetent to perform the services which are of a spiritual nature; and hence this suit for a declaration of the plaintiff's right to the transfer of the registry and of his right to the performance of the services undisturbed by the Defendant.

3. The Defendant in his written statement pleads that the plaintiff never performed services either personally or through Deputies as alleged in the plaint

Plaintiff, that during the long period of Plaintiff's absence abroad the services were performed by the Defendant's husband up to his death about 12 years ago and that she ever since continues performing the services in conjunction with the other sharers who have not been included as parties to this Suit. She affirms that the services to be performed are both of a Spiritual Character does to disentitle females to perform them and Contends that Plaintiff is disentitled to sue.

4. The following issues were recorded by the Acting District Munsiff.

1. Is Plaintiff entitled to succeed to 1/3rd of the right of performing services of the Imajed No 553 mentioned in the Plaint?

2. Is defendant incompetent to perform the said services, personally or by proxy, by reason of defendant being a female?

3. Are the duties of the office such as not Spiritual, and, if so, is Defendant Competent to perform them?

4. To what relief is Plaintiff entitled?

5. Neither party filed any document but examined the following witnesses

Plaintiff's witnesses:— 1. Abdulla Saheb
2. Chapu Bia Saheb
3. Mahomed Yahia Saheb
4. Sheik Dawood Saib

Defence witnesses:—
1. Kadir Hussain Saib
2. Syed Dastagir Saib
3. Meer Mahomed Saib
4. Fakir Hussain Saib

Third Issue: I shall take up this issue first. Neither party has produced any document any evidence relating to the grant or describing the services for which the Nyomiah was granted. The point has, therefore, to be determined on the oral evidence adduced: According to the Plaintiff's witnesses the services performed by the Nyomiadan consisted of lighting lamps at the Mosque, keeping the place clean and calling "Imullah" for prayers and that females are incompetent to perform the same.

7. The Defence witnesses, are however say that calling Imullah was not a part of the Services. They state that another Shares of the Nyomiah performed this Service of "Imullah", but the evidence is rebutted by the Plaintiff's witnesses who are Shareers in the allowance.

The Defendant has adduced evidence to show that she had the Services performed through her Son-in-law Subsequent to the death of her husband. By letting in this kind of evidence and by attempting to ignore Imullah as part of the Services Defendant has virtually conceded that the duties are of a Spiritual nature. I find this issue in favour of the Plaintiff.

Second Issue: The Services are connected with a religious endowment and they are

performed at a Mosque. They are therefore essentially spiritual and religious in their character and it has been decided that a female is incompetent to perform such services connected with a Mosque though she can manage its temporal concerns — Vide page 23 of 4 M H C Reports —

It has been argued that the services to be performed are menial in their nature and do not necessarily require any religious education or learning so as to incapacitate females from performing them personally or by proxy; but there is nothing to show that the incapacity of females arose from any such causes. However, menial the office may be, it does not become the less religious, and

distinct authority for holding that a religious office in connection with a Mosque cannot be held by females, or the services performed by her or by proxy — (Vide pages 24 and 25 of the said Report) The Defence 2nd witness a Kazi though he stated that females can discharge such duties was unable to give any instance in which a female actually performed such services at any Mosque either personally or through proxy

8. First Issue. The yeomiah was granted for the performance of services at the Mosque and as such is a part of the endowment of the Mosque. It is Wukf property under Mahomedan Law. Succession to such properties is not regulated by the rules of inheritance applicable to personal properties. The right to the allowance is inseparable from the office. 2 (M H C R 19). The individual who performs the service is

entitled to succeed to the allowance.
In the present case the plaintiff
is the only surviving son of his
father and as such is entitled
to perform the services which his
deceased father and brother
performed before him. The mere
fact that he was absent abroad
and that his brother performed the
services could not affect his
rights. There is nothing to show
that plaintiff was excluded from
participation in the discharge
of the duties by his brother or
that the latter set up any claims
adversely to plaintiff. In fact
no such plea is put forward.
It appears that the plaintiff
claimed only a 1/7th share before
the collector (Vide page 240 of the
District Gazette of 1st October 1887)
whereas he now claims the whole
of the 2/7th share to which his father
was entitled. Under what
circumstances plaintiff's claim
was restricted to 1/7th does not
appear. He might have been
misinformed. As the last

surviving male member 13/
entitled to perform the services,
the plaintiff is in my opinion
entitled to succeed to the (2/7)
1/3rd share of the zeomiah allowance
and to have the registry transferred
to his name.

9. 4. Issue. As regards the arrears
claimed by the plaintiff, I am
not at all satisfied that he
performed the services either
personally or through deputies
after his brothers death as
alleged in the plaint. He is
admittedly a resident of Vellore
and the mosque in question
is situated at Perjatpura
in A-cot. There is evidently
illfeeling between the plaintiff
and his brother's widow who
sets up a claim to the property.
I believe the evidence of the
Defence witnesses who depose
that subsequent to the death
of Defendant's husband
Defendant has had the

Services performed through her son-in-law, Syed Yakob.

10. The Decree, therefore, is that plaintiff is declared entitled to $(\frac{2}{6})$ $\frac{1}{3}$rd Share of the Yeomiah in question and to have its registry transferred to his name and that plaintiff is also entitled to perform services at the Mosque at Peerjatpura, Arcot, undisturbed by the Defendant. I further decree that the plaintiff's claim to the arrears he and the same is disallowed, that the Defendant do pay the plaintiff's costs of this suit and bear her own.

(Signed) S. Subbier
District Munsif

(True Copy)

[illegible]

District Munsif

Compd
RR
[illegible]

G.R. 1524/89

O.S. No 128 of 188.

Judgment Copy

19/15 Mg . 9

Statement of lapsed Service Jeomiah *recommended for renewal in the District of* North Arcot..

Case No.	Taluq and Village, extent and value of the entire Inam.	When and by whom granted, name of the original grantee, Sunnuds 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 of the family.	Family 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
1	Ready money payment under Ryotwar System in Kessens Village North Talluk	Granted by the Nawab of Walajah 20th Shaban Higira 1209 A.D 12th March 1795 Sheikh Inam in the original grantee as per Sunnud	The Services rendered are:— 1 Reading the Koran 2. Mulla Service 3. Keeping the Mosjid clean 4. Keeping Lamp in the Mosjid of Syed Mahomed Situated in Peer in the pettah of Arcot	Sheikh Meeran fifth in descent from the original grantee died on the 26th March 87 Jeomiah Rs. 553 26th March 88 according to Mr Mundy's Jurisdiction —	The amount of total allowance of Rs 58-4-2 was enjoyed by 5 persons in 6 Shares as shewn below. The deceased enjoyed two Shares amounting to Rs 18-15-4	The deceased has left behind him a widow Amier Bi aged about 31 years, 3 daughters Jamma Bi, Anniya Bi and Azazi Bi aged respectively 16.11 & 9 years and a divided brother named Abdulla Saib and aged 60 years. The widow and the daughters have no means of Subsistence except the grant of the endowment in question. The Service is Said to be performed by the husband of the eldest daughter as a Naib (Proxy) on behalf of the widow. Abdulla Saib is a Rezaymen living at Kellone	Abdulla Saib claims the allowance having been declared to be entitled to it under the decree of the District Munsiff of Arcot in O.S No. 128 of 1888 on his file. Copy of District Munsiff's judgment is enclosed. It is therefore recommended that Abdulla Saib may be granted the Jeomiah allowance of Rs 18-15-4 enjoyed by the deceased Sheik Meeran and his name may be substituted for that of the latter in the grant.

Share — amount
1 Mahomed Hussain ... 1 ... 9.7.8
2 Sheikh Davud ... 1 ... 9.7.8
3 Alikhan ... 1 ... 9—7—8
4 Mahomed Shaban ... 1 ... 9—7—10
5 Sheik Meeran ... 2 ... 18.15.4

North Arcot Sub Collector's Office
Kellone 19-12-88 } Signed C. M. Thornburn
A/- Sub Collector

Ref on: Gl. Enq No 2567/89 / True copy

Submitted to the Secretary to the Commissioner of Land Revenue for favourable Consideration.

Collector

North Arcot Collector's office
Palmaner 11th January 89 }

21

21

REVENUE BOARD OFFICE MADRAS

Proceedings of the Board of Revenue

(Land Revenue).

Dated 29th May 1889.

No. 3161 Mis.

READ Statement of lapsed service yeomah from the Collector of North Arcot, dated 14th May 1889, Ref on Jl. Eng No. 2567

Resolution

Submitted to Government.

2. The Collector's attention is drawn to Board's Proceedings dated 3rd May 1887, No 88

(True Extract)

[signature]
Secretary

To

The Secy to Govt R.D.
with report & encl. in orig.
" Collr of N. Arcot

[signature]

9 No 702
6. 87 No 3196

Revenue 1889 Dept

Board of Revenue
(Land Revenue)
MADRAS.

No 4027

To

The Secretary to Govt
R.D.

Recd 29 May

Proceedings, dated 29th May 1889
No. 3161 Mis. Routing Enclosures.

31 MAY 89 REVENUE DEPARTMENT

Subject.

Submitting Statement of lapsed service. Yearly recommended for renewal in the Dt of N. Arcot

For orders

Submitted that the Collector's recommendation may be accepted. No orders are quoted showing the origin of the grant, nor does it appear ~~how the~~ that permission was given under sect. 6 of the Pensions Act XXIII of 1871 for the matter being adjudicated upon by a civil court. Perhaps the notification of the Collector referred to in para 2 of the Dt. Munsiff's judgment was taken to amount to such an authorization.

The claim was not one which could be adjudicated upon by a civil court without express authority and that must be given in the form of a certificate from the Collector. The notification in the Gazette was not such a certificate as is required by the Act. However the decision of the Munsiff is doubtless right & the clearance may be registered in the name of Chandrasekhar

A. Sahib
15/6
Cl
2576

P. T. O.

5/6

Revenue Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read C. No. 4027

Order of 8 July 1889 No 5[illegible]

The Collector's recommendation is accepted, but the Govt observes that the claim was not one which could ~~not~~ be adjudicated upon by a civil court without express authority. This must be given in the form of a certificate ~~by~~ from the Collector; the notification in the Dt. Gazette was not such a certificate as is required by the Act.

To
The Collr of North Arcot
" Acctt General
Copy to the Judl Deptt
" " " Comrs of Ltd

Cl
5/7.

Why does this require counter initials?

If a copy of the order is to go to the Munsiff who decided the case the counter-initials of J. D. should be obtained. If it is decided that no copy need go the order may issue without ~~the con~~ going for counter-initials

R.S.
4/7.

May well send for counter initials.

To the Hon: the Chief Secretary for favour of counter-initials.