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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	<u>570</u>	Press ~~Mis.~~
Dated	<u>8.7.</u>	<u>1889.</u>

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,
„ the Collector of North Arcot. with report and enclosure in original.

ENCLOSURE.

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

1	2	3	4	5	6	7	8																																			
Case number.	Taluk and village; extent and value of the entire fam.	When and by whom granted, name of the original grantee, sums 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.																																			
Ready money payment under beriz deduction system in Veppur village, Arcot taluk.	Granted by the Nawab of Wallajah, 20th Shaban, Hijiri 1209 (A.D. 12th March 1793); Sheikh Imam the original grantee as per samad.	The services rendered are— 1. Reading the Koran. 2. Mullis service. 3. Keeping the masjid clean. 4. Keeping lamp in the masjid of Syed Muhammad, situated in Peerjathpura at Arcot.	Sheikh Meeran, fifth in descent from the original grantee, died on the 26th March 1887, Yeomahdar No. 553.	The amount of total allowance of Rs. 66-14-2 was enjoyed by 6 persons in 6 shares as shown below. The deceased enjoyed two shares amounting to Rs. 18-14-4.	<table><thead><tr><th>Name.</th><th>Share.</th><th>Rs.</th><th>A.</th><th>P.</th></tr></thead><tbody><tr><td>1. Muhammad Hussain</td><td>1</td><td>9</td><td>7</td><td>8</td></tr><tr><td>2. Sheikh Davud</td><td>1</td><td>9</td><td>7</td><td>8</td></tr><tr><td>3. Ali Khan</td><td>1</td><td>9</td><td>7</td><td>8</td></tr><tr><td>4. Muhammad Ibrahim</td><td>1</td><td>9</td><td>7</td><td>8</td></tr><tr><td>5. Sheikh Meeran</td><td>2</td><td>18</td><td>15</td><td>4</td></tr><tr><td>Total ..</td><td></td><td>56</td><td>14</td><td>2</td></tr></tbody></table>	Name.	Share.	Rs.	A.	P.	1. Muhammad Hussain	1	9	7	8	2. Sheikh Davud	1	9	7	8	3. Ali Khan	1	9	7	8	4. Muhammad Ibrahim	1	9	7	8	5. Sheikh Meeran	2	18	15	4	Total ..		56	14	2	The deceased has left behind him a widow, Amir Bi, aged about 31 years, 3 daughters, Jamma Bi, Aunija 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.	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.
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19th December 1886.							(Signed) W. M. THORNBURN, Acting Sub-Collector.																																			

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

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

PALMANER,
14th May 1889.(Signed) W. J. H. LE FANU,
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.(Signed) W. M. THORBURN,
Acting Sub-Collector.
19th December 1888.

Original

Gobt. 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 with-
out express authority from the Collector.

24-1-08 J

4/2-60 II

10-4-85

In the Court of the District Munsif
Arcot
Friday the 30 day of August, 1888

Present:

B. Subbar Aiyar
District Munsif

Original Suit No 128 of 1888

Plaintiff

Defendant

Abdul Sahib

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 $a(\frac{2}{7})^{\frac{1}{3}}$ rd share
of a yeomiah being an
annual ready money allowance
of Rupees 56-14-2 granted,
from the Collections in the Vajju
Village, for the performance
of services at the Mosque of
Perjathura in Arcot and to
Rupees 37-1-4 Corra

due from 27th March 1887.

2. The plaint sets forth that plaintiff's father who was the registered owner of the Said (2) $\frac{1}{3}$ rd Share of Zoniach about 10 or 11 years prior to the date of plaint transferred the registry to the name of his son, Sheikh 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 Zoniach 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 transferred to the Defendant's name and that the Defendant 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 thus 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.

plaint, that during the long period
of plaintiff's absence abroad
the services were performed by
the Defendant's husband
up to his death ~~about~~ 2 years
ago and that ~~the~~ 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 not of a
spiritual character so as
to disentitle females to
perform them and contends
that plaintiff is disentitled
to sue.

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

1. Is plaintiff entitled

to succeed to $\frac{1}{3}$ rd of the right of
performing services of the Musjid
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. Whether party filed any documents
but examined the following
witnesses

Plaintiff's witnesses:—
1. Abdulla Sahib
2. Chaper Mia Sahib
3. Mahomed Zaki Sahib
4. Sheik Dawood Sahib

Defence witnesses:—

1. Kadir Hussain Sahib
2. Syed Dastagier Sahib
3. Mir Mahomed Sahib
4. J. H. Hussain Sahib

Third Issue. I shall take up this issue first. Either party has produced any documentary evidence relating to the grant or describing the services for which the *yeoniak* 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 *yeoniadar* consisted of ^{lighting} ~~lighting~~ lamps at the *kosque*, keeping the place clean and calling *Imallah* for prayers and that females are incompetent to perform the same.

The Defence witnesses, on the other hand, say that calling *Imallah* was not a part of the services. They state that another Sharer

of the *yeoniak* performed this service of *Imallah*, but this evidence is rebutted by the Plaintiff's witnesses who are sharers 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 *Imallah* as part of the services the 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 indowment 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 4th & 6th Report.

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, nor 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 such is a part of the endowment of the Mosque. It is Wakf 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 (Dr 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 claim
adversely to plaintiff. In fact
no such plea was put forward.
It appears that the plaintiff
claimed only a 1/3 share before
the court. (See page 249 of the
District Gazette of 24 October 1887)
whereas he now claims the whole
of the 2/3 share which his father
was entitled to under what
circumstances plaintiff's claim
was restricted to 1/3 does not
appear. He might have been
misinformed as to the last

surviving male heir who is
entitled to perform the services.
The plaintiff is in my opinion
entitled to succeed to the (2/3)
share of the joint allowance
and to have the registry transferred
to his name.
9. As regards the area
claimed by the plaintiff, I am
not at all satisfied that he
performed the services either
personally or through deputies
after his brother's death as
alleged in the plaint. He is
admittedly a resident of Villu
and the Pargana question
is litigated at Pergatpara
in it. There is evidently
illfeeling between the plaintiff
and his brother's widow who
set 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, Sgt. Yakob.

10. The decree therefore, is that
plaintiff is declared entitled
to $(\frac{2}{3}) \frac{1}{3}$ share of the zemiah 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,
Areeh, 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 hear her son.

(Signed) S. Subhler
District Magistrate

(True copy)

Witness

District Magistrate

Cmpt

AK
at the

John

11/11

G. N. 1524/87

Oct 12 8 of 1881

Judgment (Ct)

Rec'd 11027 1881

Rec'd 11027 1881

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

19/15-24.9

Case-No.	Taluq and Village, extent and value of the entire Inam.	When and by whom granted, name of the original grantee, Sunuds 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.
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Ref on: pl: Enq No 2567 of 89, 1 True copy
 Sub Collector's Office Kellone 19-12-88 } Signed by Sub Collector

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

Sub Collector's Office Kellone 11th March 89

Collector



Proceedings of the Board of Revenue
(Land Revenue)

Dated 29th May 1889

No. 3161 Mil

READ Statement of Lapsed Service on behalf from the
Collector of North Arcot, dated 14th May
1889, Ref. No. 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)

Min. Secy.

To

The Secy. to Govt. R.D.
with reference to Eng. No. 2567
"Colli. of N. Arcot"

File

May will send the 4/7
creative articles.