

Revenue Department
Minutes of Consultations.

13th April 1858.

Back no^s 13414.

Order no. 465 D/10th April 1858

Fort Saint George, Revenue Consultation of 13th April 1858.

No. 13. Read the following Extract from the Proceedings of the Board of Revenue; dated 13th March 1858, No. 910.

Read letter from the Acting Collector of South Arcot
dated 9th February 1858.

(Here enter No. 23.)

1. The Village of Vipery was granted as a Shrotriem in perpetuity to Burrah Khan and his heirs, in consideration of services rendered by that individual.

2. The grant therefore comes within the scope of Regulation IV. of 1831 and claims to participate in it can only be decided in such manner as Government may direct.

3. The annual value of the Shrotriem after paying the quit-rent was estimated in 1851, at Rupees 108 per annum. Of this one third is enjoyed by the last holder's son who is a minor and registered as proprietor of the village, one third is held by the illegitimate daughters of the original grantee, and the remainder is in the possession of Abdool Kara Khan said to be the grandson of a brother of the original grantee.

4. The mother of the minor complains of these alienations and prays that the entire village be placed in her son's possession. Her petition is presented by Ausan Khan who formerly managed the village and then gave evidence which led to the allotment of a share to Abdool Kara Khan. This testimony however he now repudiates.

5. The Board observe that the claims of the illegitimate daughters was rejected by Government in Extract Minutes Consultation dated 1st April 1848, No. 345, R. D. and their enjoyment of a third of the village should no longer be permitted.

6. As regards Abdool Kara Khan, the Board are of opinion that if the proceeds of the village are to be divided among all the persons entitled by Mahomedan law to participate therein, his claim requires further investigation, in consequence of Ausan Khan's repudiation of his former evidence.

7. Considering however the circumstances of the grant having been made for personal services and the small sum realized from the village, the Board concur with the Acting Collector in considering it undesirable to allow the grant to be shared in by all the parties who may under the Mahomedan Law be entitled to claim portions. They resolve therefore to solicit instructions from Government as to the course to be adopted in regard to claims to participate in this grant. A copy of the Sunnud* is herewith submitted for reference, and the correspondence connected with the grant is quoted in the margin. The village was conferred on Burrah Khan and his heirs, and seems to have been enjoyed by the family in common in 1851.† The subdivision complained of is therefore in accordance with custom though, if continued, the grant will be frittered away among a number of persons.

(A true Extract.)

(Signed) J. D. SIM, Sub-Secretary.

பாதுகாப்பு பிரதி

செப்பனிகுவர் பெயர் :

செப்பனிகுவதற்காக எடுத்தல்-
கொள்ளப்பட்ட நாள்.

செப்பனிகுவர் பெயர் :
முதல் முதிபாள
கையொப்பம்

செப்பனிகுவர் பெயர் :
2ம் முதிபாள
கையொப்பம்

செப்பனிகுவர் பெயர் :
உதவியாளர்
கையொப்பம்

Fort Saint George, Revenue Consultation of 13th April 1858.

No. 14. ORDER THEREON, No. 465; dated 10th April 1858.

1. The Shrotriem of Vipery, referred to in the above Extract Proceedings of the Board of Revenue, was in 1805 conferred on Subadar Burrah Khan and his heirs in perpetuity in consideration of his long and faithful services, and more particularly of his having lost an arm at Assaye.

2. Burrah Khan died in 1809 leaving no heirs of his body, but he had during his life time adopted his nephew, Ali Khan, and this person obtained possession of the village and retained it until his death in 1845, his continued enjoyment of it having in 1835 been sanctioned by the Board on the recommendation of the Principal Collector, although the authority under which he originally obtained possession was not apparent.

3. On 16th March 1846, Government sanctioned the continuance of the grant in the name of Abdoolah Khan; the eldest son of Ali Khan, on whose death the whole of the circumstances of the case had been brought by the Board to the notice of Government, and in Extract Minutes Consultation dated 1st April 1848, subsequently to the death of Abdoolah Khan, they directed that the village should be registered in the name of his younger brother Dost Mahomed Khan, and rejected the claims for participation preferred by the two illegitimate daughters of Burrah Khan, the original grantee.

4. It now appears that notwithstanding these orders, one-third only of the village is enjoyed by Dost Mahomed Khan (who is still a minor) and that of the remainder one-third is held by the above mention illegitimate daughters of the original grantee, and the remaining third by one Abdul Kara Khan under an order of the late Sub-Collector, he claiming to share as grandson of a brother of Burrah Khan.

5. The Minor's mother has complained to the Board of these alienations, and the Board solicit the instructions of Government expressing their concurrence in the opinion of the Acting Collector that the grant should not be allowed to be frittered away by sub-division among all those who under the Mahomedan law can claim to be heirs of Burrah Khan.

6. The Right Honorable the Governor in Council has no hesitation in confirming absolutely by the orders of Government, dated 1st April 1848, above quoted, vesting the entire right of such possession to the village of Dost Mahomed Khan, on whose demise the case will be reported for the orders of Government, as directed in Extract Minutes Consultation, dated 11th July 1833.

7. It has been ruled frequently and by the highest legal authority in the country that grants of this nature for personal service to the State, made to an individual "and his heirs," do not descend to his collateral heirs, and that therefore a fortiori certainly grand-nephews

fore brothers of the grantees cannot claim to inherit, and a fortiori certainly grand-nephews cannot do so.

8. The claim of Abdul Kara Khan is therefore altogether inadmissible, and that of the illegitimate daughters has, as above mentioned, been already rejected.

9. The fact appears to be that under the above ruling, the Shrotriem reverted to Government on the death of the original grantee, so far as to be entirely at their disposal, for Ali Khan could not have claimed it as nephew, and his right as adopted son could not under the Mahomedan law have been asserted to the exclusion of the other legal heirs, the brothers and other nephews of his adoptive father.

10. Moreover, the Government have specially reserved to themselves the decision on claims to succeed by adoption to grants of the nature of that now under consideration. The Board will issue orders accordingly to the Acting Collector.

11. The claims of Burrah Khan's illegitimate daughters on the consideration of the grant made by adoption of their natural father, although not such as can be adjudicated on by Government, may very properly be impressed by the Acting Collector on Dost Mahomed Khan.

(Signed) H. FORBES,
Acting Secretary to Government.

No. 910.

Extract from the Proceedings of the Board of Revenue dated 13th March 1858.

In Con. 23th March 1858. Read letter from the Acting Collector of South Arcot dated 9th February 1858.

(Here enter No. 23.)

1. The Village of Vipery was granted as a Shrotriem in perpetuity to Burrah Khan and his heirs, in consideration of services rendered by that individual.

2. The grant therefore comes within the scope of Regulation IV. of 1831 and claims to participate in it can only be decided in such manner as Government may direct.

3. The annual value of the Shrotriem after paying the quit rent was estimated in 1851 at Rs. 108 per annum. Of this one third is enjoyed by the last holder's son who is a minor and registered as proprietor of the village, one third is held by the illegitimate daughters of the original grantee, and the remainder is in the possession of Abdool Kara Khan said to be the grandson of a brother of the original grantee.

4. The mother of the minor complains of these alienations and prays that the entire village be placed in her son's possession. Her petition is presented by Ansan Khan who formerly managed the village and then gave evidence which led to the allotment of a share to Abdool Kara Khan. This testimony however he now repudiates.

5. The Board observe that the claims of the illegitimate daughters was rejected by Government in Extract Minutes Consultation dated 1st April 1848, No. 345, R. D. and their enjoyment of a third of the village should no longer be permitted.

6. As regards Abdool Kara Khan, the Board are of opinion that if the proceeds of the village are to be divided among all the persons entitled by Mahomedan law to participate therein, his claim requires further investigation, in consequence of Ansan Khan's repudiation of his former evidence.

7. Considering however the circumstance of the grant having been made for personal services and the small sum realized from the village, the Board concur with the Acting Collector in considering it undesirable to allow the grant to be shared in by all the parties who may under the Mahomedan law be entitled to claim portions. They resolve therefore to solicit instructions from Government as to the

course to be adopted in regard to claims to participate in this grant. A copy of the *Sunnud** is herewith submitted for reference, and the correspondence connected with the grant is quoted in the margin. The village was conferred on Burrah Khan and his heirs, and seems to have been enjoyed by the family in common in 1851.† The subdivision complained of is therefore in accordance with custom though, if continued, the grant will be frittered away among a number of persons.

(A true Extract.)

[Signature]

Sub Secretary.

To

H. FORBES, Esq.,

Acting Secretary to Government.

Revenue Department.

* Enc. C. in F. South Arcot 10th Decr. 1851 in con. 12th July 1852.
From S. Arcot 10th Decr. 1851. " " 12th July 1852.
Pro. to Govt. 10th January 1852.
From Govt. 27th Feb. in con. 30th March No. 175 R. D.
From Govt. 11th July in con. 1st Aug. 1853. No. 806 R. D.
From Colls. 12th Novr. 1857 in con. 18th Jan. 1858.
Pro. to " 18th January 1858.
† From " 19th Decr. 1851 in con. 19th January 1852. part 2.

Revenue Department

No.

Extract from the Proceedings of the Board of Revenue 18th January 1858-

Read letter from the Acting Collector of South Arcot dated 12th November reporting upon Petition No 2591 of 1857.

[Here enter No 208.]

1 The Sub. Collector's order making over 1/3 of the Revenue of the Throtrium to two parties who claimed to share as Co-heirs was based on a deposition given by the person who at that time had the management of its affairs and who now appears as Taseel of the Minor's Mother, wherein he recognized the right of those persons to participate in the Throtrium.

2 This Manager named Afsan Khan is also uncle to the Minor, but it does not seem to the Board expedient that

Revenue Department
18th Jan 1858
No 2591

No 10

Revenue Department

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No 2591

Extract from the Proceedings of the Board of Revenue

18th Jan 1858

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Revenue Department

Extract from the Proceedings of the Board of Revenue 18th Jan 1858 No 2591

that upon his simple statement, and without any enquiry into the justice of the claim put forward, the revenue of the Village which now stands registered in the name of Dost Mahommed Khan should be alienated to persons who may afterwards be found to be without any valid title.

3. The Collector is requested to ascertain the grounds on which the claim was recognized by Affsun Khan, the relationship if such exists between them and the family of Ally Khan and to report the result giving his own opinion upon the propriety of the Sub Collector's decision and stating how much of the Shrotrium is in the possession

possession of others besides the Minor:-

/ A true Extract /

/ Signed / L. Forbes

Acting Sub Secretary

To G. M. Taylor Esq.
Acting Collector of
South Arcot.

/ A true Copy /

G. M. Taylor
Secretary

Compd
J. Boyle

Am 13th April 1858
 1858 13-14

Extract from the Minutes of the Board of Revenue dated 13th January 1858.

P 34/58.

One: an extract from the Proceedings of the Board of Revenue to the effect that the Board of Revenue has decided that the Board of Revenue should be empowered to issue orders regarding the matters.

1858 R.D.
 Extract from the Minutes of Consultation
 Under date the 10th April 1858.

Read the following Extract from the Proceedings of the Board of Revenue.
 [then enter 13th March 1858 & 910]

The Minutes of the Board of Revenue dated 2nd in the above mentioned Proceedings of the Board of Revenue. was in 1855 an order on Subash Khan Khan and his heirs in relation to the consideration of the land and the rights of the land and the rights of the land of his living but an order to be made.

Kurrah Khan died in 1864. leaving no heirs of his body but he had during his life-time adopted his nephew. Ali Khan. and this person obtained possession of the village and retained it until

Extract from the Minutes of the Board of Revenue dated 13th January 1858. One: an extract from the Proceedings of the Board of Revenue to the effect that the Board of Revenue has decided that the Board of Revenue should be empowered to issue orders regarding the matters.

his death in 1845. his con-
tinued enjoyment of it
having in 1835 been sanctioned
by the P. & C. on the recommendation
of the Prin. Collector. altho
the authority under which he
originally obtained possession
was not apparent.

1st Lt. Col.
15. March
1848.

On 15. March 1846. Lt.
sanctioned the continuance
of the grant in the name
of Abdollah Khan. the
eldest son of Ali Khan. on
shown death the whole of the
circumstances of the case
had been
brought before the P. & C. the
notice of Lt. Col. and in Dec.
dated 1st April 1848. subse-
quently to the death of Abdollah
Khan. they directed that the
village should be registered
in the name of his younger
brother Dost Mahomed
Khan. and rejected the
claims for participation
preferred by the two illegitimate
sons of Abdollah Khan
the original grantee.

It now appears that abt.
withstanding these orders
one third only of the village
is enjoyed by Dost Mahomed
Khan (who is still a minor)
and that of the remainder
one third is held by the
above mentioned illegitimate
daughters of the original grantee
and the remaining third
by one Abdul Karim Khan
under an order of the Lt. Col.
Subj. W. he claiming a
share as grandson of a
brother of Abdollah Khan.
The minor's daughter has
complained to the P. & C. of
these alterations. and the
P. & C. solicit the instructions
of Lt. Col. expressing their con-
currence in the opinion of
the Adj. Gen. that the grant
should not be allowed to
be partitioned away by Lt. Col.
division amongst three
who under the Mohammedan
law can claim the thirds
of Abdollah Khan.

The P. & C. the Dir. has
no hesitation in confirming

absolutely the order of 1st April
1848 above quoted.
resting the entire right of
succession & the village in
Dost Muhammad Khan, on
Shah's demise the case will
be reported for the orders of
Govt. as directed in Off. ltr.
dated 11. July 1853.

It has been ruled frequently
and by the highest legal authority
in the country that Grants of
this nature for personal service
& the state, made to an individual
and his heirs: don't descend
& his collateral heirs, but
only to his direct heirs, and
that therefore brothers of the
grantee cannot claim &
inherit, and 'a fortiori'
certainly Grand. nephews
cannot do so.

The claim of Abdul
Kara Khan is therefore
altogether inadmissible, and
that of the illegitimate daughters
too as above mentioned
has already rejected.

The fact appears to be
that under the above ruling
the Shroffs created &

See. B. C. O.
Vol. I. page 278/9
Notes 4. and 5.

on the death of the original
grantee - so far as to be
entirely at their disposal
for Ali Khan could not have
claimed it as nephew - and
his being an adopted son
could not under the Mahom.
medum Law have been
asserted & the exclusion
of the other legal heirs, the
brothers, and other nephews
of his adoptive father.
Moreover the Govt. have
specially reserved & there-
by reserve the decision on
claims & success by
adoption & Grants of
the nature of that now
under consideration.

The order of 16. March
1846. confirming the grant
to Abdul Karim Khan. may
be said to have been a retro-
spective recognition of the
adoption of his father Ali
Khan. and the order of
1st April 1848. strengthens
this consideration.

It is at any rate
sufficient to exclude any

More than the minor debt
known than from
present participation in
the grant.

The 18th with issue orders
accordingly & the 19th.

The claims of Burrak
Khan illegitimate daughters
on the consideration of the
freedom by adoption of
their natural father. at the
not such as can be adjudicated
on by Govt. any way
imposed by the impression
by the Govt. on Govt
known Khan. L.A.

23. March
58.

WZ

Report to the Govt. of the
with 9 Enam.
Cip. 12.

24th March 1858

Revenue 1858 Dept.
D. to Govt 13. April

270465.

Extract claims of Govt.
D. to Govt 10. April 1858

Confirming absolutely
the orders of Government
dated 15th April 1858, making
the entire right of succession
to the Shrothens Village of
Cherap in South Arcot to
Govt. Mahomed Khan, on
whose demise, the case will
be reported for the orders of
Government, as directed in
Extract Minutes for consultation
of the 11th July 1853.

10/3/54