

10
Revenue Department
Minutes of Consultation

11th May 1858

Back no 21 + 22

Order no 593 7/6th May 1858

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Fort Saint George, Revenue Consultation of 11th May 1858.

No 21. Read the following Extract from the Proceedings of the Board of Revenue ; dated 14th April 1858, No. 1284.

In Consultation 14th April 1858. Read the following letter from the Acting Collector of Malabar, dated 27th January 1858.

(Here enter No. 13.)

Resolved that the foregoing letter be submitted for the consideration and orders of the Right Honorable the Governor in Council.

2. The case referred to in the Acting Collector's letter may be briefly recapitulated as follows.

3. The Karyat Nambiar family in Malabar is in receipt of a Malikanah allowance of 1,400 Rupees per annum.

4. Prior to 1840, the amount was paid to Koonjoony Nambiar's brother, and to himself after his brother's decease ;—but disputes having arisen, Mr. Conolly, in that year, ruled in an elaborately written decision, that Koonjee Shangren Nambiar, was the rightful head of the family, and directed that the whole allowance should be paid to him. This individual has in consequence since received the amount from the Treasury.

5. Mr. Conolly's decision was appealed against to the Board and Government but without success.

6. In 1846, an arrangement seems to have been entered into between the parties, by which it was agreed, that Koonjoony Nambiar should have the management of all the family property. Koonjee Shangren Nambiar drawing the Malikanah, and allowing the former 500 Rupees per annum.

7. In Suit No. 255 of 1855, the Civil Judge of Tellichery, Mr. Chatfield, taking a completely different view from Mr. Conolly has declared that Koonjoony Nambiar is the head of the family, and has directed that the agreement entered into in 1846, should be maintained. As regards the Malikanah he also decreed "that 1st Defendant shall receive from Plaintiff" i. e. Koonjee Shangren Nambiar "or if feasible, directly from the Treasury, at the rate agreed upon in the raze" i. e. 500 Rupees per annum, "with arrears due from 1846, when by Plaintiff's own shewing all remittances on his part were with held."

8. The Civil Court seems to have gone beyond its jurisdiction in dealing with the Malikanah ; and in the special appeal to the Sudder, objection was specially taken to this part of the decision, as the matter was not under contention in the lower Court, and was moreover exempt from its jurisdiction.

9. The Sudder Court in confirming the Civil Court's Judgment took exception to that portion of it which related to the Malikanah allowance, on the ground that special authority had not been obtained from Government, under Regulation IV. 1831 to entertain the suit.

10. Mr. Robinson says that the objection of the Sudder was merely technical, the spirit and principle of the entire decree being upheld and affirmed, and recommends that the Civil Court's decree be accepted as an equitable decision as to the duty of Government in regard to the Malikanah.

11. The Board observe that Mr. Robinson's suggestion for making the payment of the Malikanah to Koonjoony Nambiar in lieu of to Koonjee Shangren Nambiar, the person formally declared by the late Collector, the Board, and the Government, to be the proper recipient, is quite uncalled for. The decision of such points rests, not with the Courts but with the Government, and as Mr. Robinson himself observes, the opinion given by the Provincial Court in 1842 to the same effect as Mr. Chatfield's present judgment was not accepted by the Government as a guide in determining who should be the recipient of the Malikanah. There was therefore no reason why this question should have been again brought forward, nor does the enforcement of any private agreement between these parties by the decree now ruled, afford grounds for a reconsideration of former orders, or claim in any way the cognizance of Government.

பாடுகாப்பு பிரதி - 1

செப்பனெயர் பெயர் :

செப்பனெயர்க்காக எடுத்தல் -
கொள்ளப்பட்ட பான்

செப்பனெயர்
பெயர் :
கொள்ளப்பட்ட பான்

செப்பனெயர்
பெயர் :
கொள்ளப்பட்ட பான்

செப்பனெயர்
பெயர் :
கொள்ளப்பட்ட பான்

Fort Saint George, Revenue Consultation of 11th May 1858.

3134 and 3800 of 1857, 271 and 508 of 1858. 12. Several petitions have been received by the Board from Koonjee Rama Nambiar which are forwarded herewith.

(A true Extract.)

(Signed) G. S. FORBES, *Secretary.*

No. 22.

ORDER THEREON, No. 593; dated 6th May 1858.

The Government quite agree with the view the Board of Revenue have taken of this case. The late Collector Mr. H. V. Conolly decided the matter in an "elaborately written decision" in 1843, and the Government refused to interfere with, and confirmed that decision. The Court of Suder Udalut have pointed out to the lower Court the irregularity of their interference with the Board will therefore be good enough to instruct the Acting Collector to inform Petitioners that the Malikhanah allowance will continue to be disbursed, as settled by Mr. Conolly, to Koonjee Shunkur Nambi, as the head of the family.

2. Ordered that the following endorsement be made on Petitions 3800 of 1857, and 271 and 1041 of 1858.

"Petitioner is referred to the Acting Collector, to whom instructions have been issued in his case."

(Signed) W. H. BAYLEY,
Acting Secretary to Government.

No. 1234.

Extract from the Proceedings of the Board of Revenue, dated 14th April 1858.

In Com. 14th April 1858.

Read the following letter from the Acting Collector of Malabar, dated 27th January 1858.

[Here enter No. 18.]

Resolved that the foregoing letter be submitted for the consideration and orders of the Right Honorable the Governor in Council.

2. The case referred to in the Acting Collector's letter may be briefly recapitulated as follows:

3. The Karyat Nambiar family in Malabar is in receipt of a Malikanah allowance of 1400 Rs. per annum.

4. Prior to 1840, the amount was paid to Koonjoony Nambiar's brother, and to himself after his brother's decease;—but disputes having arisen, Mr. Conolly, in that year, ruled, in an elaborately written decision, that Koonjee Shangren Nambiar, was the rightful head of the family, and directed that the whole allowance should be paid to him. This individual has in consequence since received the amount from the Treasury.

5. Mr. Conolly's decision was appealed against to the Board and Government but without success.

6. In 1846, an arrangement seems to have been entered into between the parties, by which it was agreed, that Koonjoony Nambiar should have the management of all the family property. Koonjee Shangren Nambiar drawing the Malikanah, and allowing the former 500 Rupees per annum.

7. In Suit No. 255 of 1855, the Civil Judge of Tellicherry, Mr. Chatfield, taking a completely different view from Mr. Conolly has declared that Koonjoony Nambiar is the head of the family, and has directed that the agreement entered into in 1846, should be maintained. As regards the Malikanah he also decreed "that 1st Defendant shall receive from Plaintiff i. e. Koonjee Shangren Nambiar "or if feasible, directly from the Treasury, at the rate agreed upon in the razeet" i. e. 500 Rupees per annum, "with arrears due from 1846, when by Plaintiff's own shewing all remittances on his part were withheld."

8. The Civil Court seems to have gone beyond its jurisdiction in dealing with the Malikanah; and in the special appeal to the Sudder, objection was special taken to this part of the decision, as the matter was not under contention in the lower Court, and was moreover exempt from its jurisdiction.

9. The Sudder Court in confirming the Civil Court's Judgment took exception to that portion of it which related to the Malikanah allowance, on the ground that special authority had not been obtained from Government, under Regulation IV. 1831 to entertain the suit.

10. Mr. Robinson says that the objection of the Sudder was merely technical, the spirit and principle of the entire decree being upheld and affirmed, and recommends that the Civil Court's decree be accepted as an equitable decision as to the duty of Government in regard to the Malikanah.

11. The Board observe that Mr. Robinson's suggestion for making the payment of the Malikanah to Koonjoony Nambiar in lieu of to Koonjee Shangren Nambiar, the person formally declared by the late Collector, the Board, and the Government, to be the proper recipient, is quite uncalled for. The decision of such points rests, not with the Courts but with the Government, and as Mr. Robinson himself observes, the opinion given by the Provincial Court in 1842 to the same effect as Mr. Chatfield's present judgment was not accepted by the Government as a guide in determining who should be the recipient of the Malikanah. There was therefore no reason why this question should have been again brought forward, nor does the enforcement of any private agreement between these parties by the decree now ruled afford grounds for a reconsideration of former orders, or claim in any way the cognizance of Government.

3134 and 3800 of 1857, 271 and 508 of 1858.

12. Several petitions have been received by the Board from Koonjee Rama Nambiar which are forwarded herewith.

(A true Extract.)

H. FORBES, Esq.,

Acting Secretary to Government, R. D.

Secretary.

Revenue Department
N. 593

Extract from the Minutes of Consultation
Under date the 6th May 1858.

Read Extract from the Proceedings of the
Board of Revenue dated 14 April 1858
No 1284. R. D.

The Government quite agree with the
view the Board of Revenue have
taken of this case. The late Collectors
Mr. H. G. G. decided the matter in
an "elaborately written decision" in
1843, and the Govt refused to inter-
fere with & confirmed that decision.
The Court of S. A. have pointed out
to the lower Ct. the irregularity
of their interference, ^{with the malikdars} no permission
being having been obtained under
Reg. II of 1831; and ~~the Board~~
~~present recommendation is quite~~
~~unacceptable~~. The Board will
therefore be good enough to
instruct the Ag. Collectors to
inform Petitioners that

[Handwritten initials and marks]
1859

Revenue 1858 No 1284
Extract from the Pro-
ceedings of the Board
of Revenue

Dated 14th
April 1858
No 1284

Revenue 1858 No 1284

Substantially with
the Board's opinion on
the case, a letter from the
Acting Collectors of Malakand
relating to a dispute between
the brothers of the Mangat
family as to who
of them shall be considered
the rightful heir of the
family, to whom the
malikdars shall be
made payable.

11th April 1858

1858

The Malikanah allowance will
continue to be disbursed, as settled
by Mr Conolly, & Loonjee Shunkar
Humbis, as the head of the Family.

2. Ordered that the following endorse-
ment be made on Petitions 3800 of
1857, and 271 of 1838.

" Petitioner is referred to the
" Acting Collector, to whom
" instructions have been issued
" in his case "

W. H. M. N. Apr 26.

3 Copies to the Secy of Rev.
Pip: 7

1 - Mr. Dep. with 1 Petition 12 May --

