

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Shekh Sultan Sani v. Shekh Ajmodin (by Revivor, made after the hearing of the Appeal, but before the delivery of the Judgment, Shekh Sultan Sani v. Begumbi Kom Ajmodin and others), from the Governor in Council of Bombay; delivered 19th November 1892.*

---

Present :

LORD HOBHOUSE.  
LORD MACNAGHTEN.  
LORD HANNEN.  
SIR RICHARD COUCH.  
LORD SHAND.

[*Delivered by Lord Hannen.*]

The Plaintiff, Sultan Sani, claims to be the son of Shekh Khan Mahomed, who died on the 31st December 1872, and as such son to be entitled to certain properties alleged to have been held by Khan Mahomed by a tenure known as saranjam, and certain other properties alleged to have been held by a tenure known as inam. The nature of these tenures will be considered presently.

The Plaintiff also claimed the property as devised to him under the will of Khan Mahomed.

The suit was one in the Court of the Agent for Sardars, a tribunal created in 1827 (Bombay Regulation XXIX. of 1827) for the trial of suits against certain Deccan Sardars, an appeal being given to the Governor in Council of Bombay, and from him to the Queen in Council.

In this suit the Plaintiff sought to recover possession from the Defendant Ajmodin (the predecessor of the present Respondents) of the saranjam and inam lands of which (as the Plaintiff alleged) the Defendant had been put into wrongful possession by the Bombay Government after the death of Khan Mahomed.

In answer to this suit it was contended by the Defendant that the Plaintiff was not the son of Khan Mahomed; and, secondly, that the tenure of the lands claimed was such that the Government was entitled on the death of Khan Mahomed to resume them and assign them to whom it pleased.

The title of the Plaintiff under the will of Khan Mahomed was not disputed as to the property of the testator over which the Government had not such a disposing power.

The Agent for Sardars held (8th June 1886) that the Plaintiff is the son of Khan Mahomed, but that the saranjams were completely at the disposal of the Government. As to the other lands, which he distinguished as inam, he held that the Plaintiff was entitled under the Mahomedan law to recover as only son of the testator.

On appeal to the Governor in Council, His Excellency in Council held that the Plaintiff was not the son of Khan Mahomed, and that the Government had power not only to resume the saranjam but also the so-called inam property, and to assign them to whom it pleased.

From this decision the present appeal is brought to Her Majesty in Council.

The Agent for Sardars and the Governor in Council have both held that the saranjam lands were of such a tenure that the Government was entitled to resume them and to re-grant them to whom it pleased. Their Lordships propose to consider this question in the first instance.

“Saranjam” is stated in Wilson’s Glossary to be an “assignment of lands or their revenue by the State for the support of troops.”

“Mokasa,” a word which will be found in several of the documents herein-after referred to, appears to have a meaning nearly equivalent to that of saranjam. It is defined as “villages or lands, or a share in the rule over them, and revenue arising from them, granted on condition of military service or in inam.”

“Inami” is stated by Wilson to mean “grants of land held rent free, and in hereditary and perpetual occupation.”

The history of the property to which this suit relates is as follows:—

In 1708, one Shekh Meeran (or Mira) was in the service of the Rajah of Satara. For assistance rendered to the Rajah “he received the inam village of Pasarni, a pension of Rs. 1,800 monthly, and was raised to the rank of a commander of 60 horses, for the maintenance of which he held mokasa amals (meaning ‘share of revenue’) to the amount of Rs. 40,000. The pension ceased with the first Shekh Meeran, and the mokasa has since fallen off to about Rs. 18,000 which, with Pasarni, is still enjoyed for the performance of service to the Rajah of Satara with 10 horsemen.”

This is given on the authority of Lieutenant-Colonel Briggs (Rec., p. 234), formerly resident at Satara. The date does not appear.

The property thus granted was situated in the districts of Satara, Poona, and Khandesh (Rec., p. 236).

The earliest document (Rec., p. 185) relating to the property is of the date of 1709, A.D. This document is headed, “Body of horse under the control of the State” and it runs thus:—“Body (of horse under) Shekh Mira; saranjam, total as in last year (as per) mandatory letters;”

and it includes nine mokasa villages and the inam village of Pasarni.

The next document is dated 1715, A.D. (Rec., p. 187), and is also headed "Body of horse under the control of the State, Body (of horse) Shekh Mira," and is as follows:—"The letter of command dated 18th moon Saval (regarding) the village of Pasarni, Samat Haveli, Prant Wai. A deed of inam was formerly given about the grant of this village as inam to the afore-named person, together with all rights and cesses, the present and future taxes, and together with sardeshmukhi. The deed having been burnt, new deeds have been prepared and given,"

In 1718, A.D., a document (Rec., p. 189) headed, "Saranjam for the body of horse under the control of the State . . . in the charge of Shekh Mira," includes and comprises "village of Pasarni, inam village," also "inam lands in Kasba Wai (called) Katban, the place of residence of the afore-named person are granted in inam."

Katban appears to have been granted to Shekh Mira (Rec., p. 40, date uncertain, qu. 1715), "to him and his son, grandson, &c., from generation to generation."

The grant of Pasarni was confirmed in 1752 (Rec., p. 279) by the mother of the then Rajah of Satara to Shekh Khan Mahomed I., the son of Shekh Mira, in the same terms.

In a document (Rec., p. 75) described as the Poshwa's diary of 1763, A.D., it is recorded that "Mokasa villages, &c., have been continued by the Government from former times to Shekh Khan Mahomed in the service of Government. They are in the same manner confirmed."

Amongst the properties enumerated are "the whole village of Pasarni, Samat Haveli, Prant Wai, together with the deshmukhi and sardeshmukhi (rights) being inam."

In 1785, A.D., in the diary of the Peshwa is registered (Rec., p. 71,) "the sanad for continuing " the Saranjam to Shekh Mira Waikar," *i.e.*, Mira II., and the saranjam is thus described,— " A saranjam (consisting) of amal (shares of " revenue) of mahals and of single villages, as " also inam villages and lands, were continued " from former times to Shekh Khan Mahomed " Walad Shekh Mira for the support of troops. " He having died, the saranjam and inam villages " and lands have as before been confirmed upon " his son Shekh Mira for the support of troops." Then follows an enumeration of the properties, which includes the mokasa lands and inam villages and lands, amongst these latter being the whole village of Pasarni, Samat Haveli, Prant Wai.

It is to be observed that this document clearly includes the inam villages and lands with the mokasa as parts of one saranjam for the support of troops.

When the power of the Peshwa was overthrown, Shekh Mira II. was in possession of this saranjam. A portion of the conquered territory was placed under the Government of the Rajah of Satara, with whom a treaty was entered into on the 25th September 1819, by which it was provided that the possessions of the jaghirdars within the Rajah's territory were to be under the guarantee of the British Government, which engaged to secure the performance of the service due to the Rajah according to established custom.

Separate agreements were entered into with several jaghirdars, of whom Shekh Mira II. was one. The agreement with Shekh Mira II., which was made on the 3rd July 1820, thus commences:—" These jaghires, &c., were formerly held by you as a personal and military " jaghire; but having come into the possession of " the British Government along with the rest of

Aitchison, Vol. VI., edition of 1864, No. 2.  
Articles, 1 & 7.

Aitchison, Vol. VI., edition of 1864, p. 78.

“ the country, they are now restored, in consideration of the antiquity and respectability of the family, to be held as formerly in personal and military jaghires.”

The 7th Article stipulates that “ without orders from Government no extra troops are to be levied, and none assembled for the purpose of making war on any one. In matters of family disputes concerning relationship and such like, no appeal to arms can be permitted, but the case is to be represented to the Agent of the British Government, who will communicate with the Government of His Highness, and whatever decision is given must be reckoned binding.”

This agreement does not specify the jaghires to which it relates. The 5th Article is as follows :—  
 “ Whatever inam villages, wuttuns, and other allowances have hitherto belonged to Shekh Mira Waekur within the territories of the British Government or of His Highness shall be continued, and whatever items of revenue belonging to His Highness’s Government may be within the jaghire shall be continued to be paid.”

There are no words in this agreement having reference to the descendants of Shekh Mira, and it distinctly states that the jaghirs are to be held “ as formerly in personal and military jaghires.” This agreement must be regarded as the root of the title (whatever it may be) which was acquired by Shekh Mira II.

With regard to the expression contained in some of the sunnuds previously cited of the grant being to the person named “ his son, grandson, &c., from generation to generation,” it has been observed by many writers of authority on this subject that they do not, as might be supposed, impart a fixed hereditary tenure. Colonel Etheridge, in his preface to the narrative of the Bombay Inam Commission, quotes the language

of Sir Thomas Munro in a minute of the 15th March 1822, in which he states that the "terms " in such documents (sunnuds) for ever, from " generation to generation, or in Hindu grants, " while the sun and moon endure, are mere " forms of expression, and were never supposed " either by the donor or receiver to convey the " durability which they imply, or any beyond " the will of the sovereign ;" and in a subsequent minute of the 16th January 1823, Sir Thomas Munro shows that while the seizure of private property by the native princes would have been considered unjust by the country, jaghir grants were not regarded by the people in the light of private property. (Etheridge, p. 14.)

Their Lordships entertain no doubt that the engagements entered into by the English Government with the Rajah of Satara and with the several jaghirdars did not impart any greater fixity of tenure than had been previously enjoyed by those jaghirdars under the native rulers, and that their jaghirs were liable to resumption at the will of the Government, although from reasons of political expediency the English authorities would not be disposed to add to the disturbance and confusion attending a conquest, by dispossessing the holders of property to any greater extent than was necessary for safety.

Thus, on the death of Shekh Mira II. in 1827, the saranjam which he had enjoyed was continued to his son Shekh Khan Mahomed II., but the character of his tenure was distinctly stated in the document by which possession was given to him (Rec., p. 195), " Your father Shekh Mira " Waikar died this year, and the saranjam in his " possession was thereupon placed under attach- " ment by Government. A petition having now " been submitted by you, it has been decided to " continue the saranjam to you as before for " service to be rendered by you. The attach-

“ment has therefore been removed, and . . .  
 “this sanad has been issued to you. The  
 “amount which is always paid from the Govern-  
 “ment Treasury on account of the mokasa,  
 “which forms part of the saranjam, shall there-  
 “fore continue to be paid to you. As regards  
 “the alienated lands, you should take them back  
 “in your possession and enjoy them in ac-  
 “cordance with past usage, and in accordance  
 “with the agreement passed by you to Govern-  
 “ment you must continue to honestly and faith-  
 “fully perform the service.”

This last clause apparently relates to lands which had been alienated by Shekh Mira II., but which as the Government pointed out he had no right to do.

These were the terms on which Shekh Khan Mahomed II. acquired the position of jaghirdar under the Rajah of Satara. He accepted that position as the gift of the British Government, which had decided to continue the saranjam to him. In this document there is no reference to the descendants of Khan Mahomed, and the grant is made for service to be rendered by him, and is in its terms personal. One of the questions to be determined in this case is whether, on the death of Khan Mahomed, the Government had or had not the same power of deciding to whom it would grant this saranjam, which it had exercised on the death of the previous holder in favour of Khan Mahomed. In making that grant the Government was no doubt influenced by the fact that Khan Mahomed was the son of the previous jaghirdar, and that it was politically expedient to continue the possession of the saranjam in the same family, but there is nothing to show that the Government recognized any right of succession in the son; the language of the grants in the cases both of Shekh Mira II. and Shekh Khan Mahomed II. points in the opposite direction. The practice of



regranting jaghirs to the sons of preceding jaghirdars naturally had the effect of leading sons to expect to succeed their fathers, and when this practice was long continued in one family the original character of the holding became obscured. This process has been commented on by many writers on the subject of India. In the Honourable Mountstuart Elphinstone's History of India, it is said (5th edition, p. 82), "Notwithstanding all these precautions, the usual consequences of such grants (jaghire) did not fail to appear. The lands had from the first had a tendency to become hereditary, and the control of the Government always grew weaker in proportion to the time that had elapsed from the first assignment. The original principle of the grant, however, was never lost sight of, and the necessity of observing its conditions was never denied." In the present instance there was but the one re-grant to Khan Mahomed since the original grant to Shekh Mira, and in that re-grant the character of the holding as saranjam (or jaghir) derived from the decision of the Government in the applicant's favour was expressly stated.

In 1834 an inquiry arose as to the tenure of certain jaghirs in Khandesh, and as to that of Shekh Mira. Mr. Warden, the deputy Agent, writing to Mr. Saville Marriott on the 3rd January 1834, says (Rec., p. 212),—"Shaik Meera Waeekar was a Satara feudatory chief, serving the Raja with a few horse, and holding a saranjam for his life in Khandesh. I have referred to his sunnud or title deed, and find that his estate was clearly a life grant, the customary provision for the continuance of it by inheritance to be found in the sunnuds of all hereditary saranjamdars being omitted, and the usual form of life grants adopted."

What document Mr. Warden refers to does

not appear; possibly it was the sanad of 1785 (Rec., p. 71).

In the course of the inquiry arising out of Mr. Warden's report, Mr. Elphinstone, who had been engaged in the settlement of the Deccan in 1818-19, was referred to by the Court of Directors for his advice, and he, in the year 1838 (Rec., p. 215), recommended that all jaghirs "granted by the Mogul Emperor or the "Rajas of Satara should be hereditary in the "fullest sense of the word;" and with regard to Shekh Mira he stated that his impression was "that Shekh Mira's ancestor commanded a Mogul "fort at the time of the first conquest by the "Mahrathas, and surrendered on terms, one of "which was the receipt of a hereditary jaghir. If "this be so we can have no right to resume his "lands unless we can annul the agreements of "former Governments"; and he added that a reference to his secretary's list of jaghirdars, prepared in 1818-19, would settle the question.

Upon reference to this list (transmitted 25th October 1819, Rec., p. 220), which is headed, "Mr. Elphinstone's list of saranjams" (Rec., p. 211), Shekh Mira's name appears. He is there stated to belong to the class of Sardars or great chiefs. It is stated that he made his submission on the 28th March, having left the Peshwa at least a month before; that he is an old jaghirdar of the Shahoo Raja, and under the heading "Decision" is written, "To have all his "jaghirs except those in the Nizam's country "on account of his early submission and ancient "family." And under the heading "For what "period recommended" is written "Hereditary."

It has been seen, however, that this recommendation was not acted upon at the time, and that the grant which was in fact made to Shekh Mira did not contain any language importing that the grant was of an hereditary jaghir.

In consequence of the advice of Mr. Elphinstone the Court of Directors, in a Despatch of the 26th October 1842 (Rec., p. 219), directed that all jaghirs in "Class I. of Mr. Mill's list, " which bears date anterior to 1751, be as " Mr. Elphinstone recommends, hereditary in " the fullest sense of the word, together with " those of which the dates are unknown, but " which are known to be ancient. The latter " class, though small, includes the three resumed " jaghirs of Shekh Meera, Sumsher Bahadur, and " Eshwant Rao Dabhary. The first of these " already restored to the son of the last holder, but " for life only, must be considered hereditary."

It is to be observed with regard to this direction that it recognizes that the jaghirs of Shekh Mira have been restored to the son of the last holder (that is, to Shekh Khan Mahomed II., son of Shekh Mira II.), but for life only, and that the time for taking any action with reference to the succession would not arise in the ordinary course of things until the death of Khan Mahomed. No fresh grant was made to Khan Mahomed, and his rights must depend upon that grant, which had in fact been made to him on the death of his father. It remained for the Government, when the necessity should arise, to determine to whom it should re-grant, or in whom it should recognize a right of succession to the jaghirs then possessed by Khan Mahomed.

This was the state of things down to 1857, when one Shaikh Sultan Inamdar (Rec., p. 149) presented a petition to the Assistant Inam Commissioner at Satara complaining that, although he and others shared in the inams held by the family of Khan Mahomed, their names were purposely omitted by him (Khan Mahomed) in a genealogical table, which he produced before

the Mamletdar of Wai in a certain inquiry affecting those shares, while a son of one Manik Dewtia was mentioned in it as his (Khan Mahomed's) son.

This petition was forwarded to the Magistrate of Satara, who directed an inquiry into the charge thus made against Khan Mahomed of putting forward the child of another man as his own.

This inquiry was conducted (Rec., p. 155) by the First Assistant Magistrate Lieutenant Sandford (afterwards Sir Herbert Sandford), whom the Governor in Council describes as a magistrate of great experience and intimate knowledge of the people and politics of Satara. With him was associated in the inquiry Gopalrao Hurry, of whom the Governor says that he was an officer held in high estimation, who was afterwards raised to several important judicial posts.

This inquiry appears to have been a preliminary investigation with a view to considering the expediency of instituting criminal proceedings against Khan Mahomed, and those supposed to have assisted him in putting forward a supposititious child as his own.

The inquiry was conducted in a judicial manner, the witnesses were examined on oath, and Khan Mahomed was offered the opportunity of cross-examining the witnesses who deposed against him, and he produced many witnesses in his defence.

In the result Lieutenant Sandford and Gopalrao Hurry concurred in reporting (Rec., pp. 153, 154) that the charge had been established, and that the child put forward by Khan Mahomed as his son, namely, the present Plaintiff, was not his child but the child of Manik.

The report of Lieutenant Sandford and the evidence taken by him were transmitted by the

Magistrate of Satara to Mr. Ellis, described as the Acting Revenue Commissioner for Alienations, and were by him forwarded to the Government at Bombay (Rec., p. 136).

Mr. Ellis concurred in the view of Lieutenant Sandford, and he deprecated putting Khan Mahomed and the others concerned on their trial, and for reasons which he gave he did not recommend the confiscation of his saranjam, but suggested that the name of Khan Mahomed be struck off the list of Sardars, and that he be deprived of all the honorary privileges enjoyed by persons of his rank, the only exception in his favour being the retention of the arrangement then in force, whereby a portion of his saranjam was assigned to his creditors and the balance allowed to him for subsistence.

In a subsequent letter of Mr. Ellis to the Secretary to Government, dated the 16th April 1858 (Rec., p. 139), he suggested that the Government should declare that even if Khan Mahomed "should leave a legitimate son, the saranjam will not be continued to him."

This recommendation was ultimately, on the 5th April 1860, adopted by the Government (Rec., p. 130), and communicated in a letter of that date to the Revenue Commissioner for Alienations, Captain T. A. Cowper.

This resolution was communicated to Khan Mahomed, who thereupon (Rec., p. 22 *e.*), on the 22nd October 1860, petitioned the Governor in Council to review the proceeding.

The petition was referred to Mr. Inverarity, the collector at Satara, who on the 21st March 1861 (Rec., p. 22 *a*) reported that he was not of opinion that Khan Mahomed had succeeded in shaking the validity of the evidence which had been brought forward, and that he did not recommend that a fresh inquiry be granted.

And on the 8th April 1861 (Rec., p. 22 *j*) Mr.

Forbes, the Acting Secretary to the Government, informed Mr. Inverarity that, on a review of all the circumstances of this case, His Excellency the Governor in Council was of opinion that no reasons had been advanced by Khan Mahomed which would justify the grant of a fresh inquiry, and that the decision which he appealed against must therefore be regarded as final.

Communication to this effect was directed to be made to Khan Mahomed.

In 1863 Khan Mahomed again appealed (Rec., p. 95) to the Governor in Council, and his memorial was referred (Rec., p. 142) to the Duke of Argyll, Secretary of State for India in Council, who, on the 26th October 1871, declined to reopen the case (Rec., p. 144).

Khan Mahomed died on the 31st December 1872. It then became necessary to determine to whom his saranjam should be granted. Amongst the candidates was Shekh Ajmodin, the present Respondent, a descendant of Shekh Abdul Khan, the half brother of Shekh Mahomed II.

This led to a Resolution by the Government, dated the 23rd October 1873 (Rec., pp. 123, 124), "that the Agent for Sardars should be requested "to investigate judicially, and after due notice "to all parties concerned, whether Shekh Ajmodin "is under Mahomedan law the legitimate "successor to the headship of the family, either "by adoption or descent."

Baron Larpent, the Agent for Satara, in pursuance of the Resolution of the 23rd October 1873, proceeded to investigate judicially, the questions referred to him after due notice to all parties concerned. Amongst the parties who appeared before him were Sultan Khan Sani, claiming to be the son of Khan Mahomed.

On the 28th November 1873 (Rec., p. 126) Baron Larpent made his report. The impor-

tant passages are as follows (Rec., p. 128):—

“The fourth issue remains for decision, viz.,

“Is Ajmodin, under Mahomedan law, the

“legitimate successor to the headship of the

“family of Shaik Khan Mahomed? I think

“that there can be no doubt he is not. As I have

“already said, Shaik Khan Mahomed left a

“daughter, and she has sons, and these sons are

“nearer the head of the family than the son of a

“daughter of Shaik Abdul Kadar. The decision

“as to who should be recognized by Govern-

“ment as head of this family does not, in my

“opinion, rest on a consideration of who may be

“the next of kin to Shaik Khan Mahomed under

“Mahomedan law. Government appears to

“me to have decided in their letter, No. 1497,

“of 5th April 1860, that Shaik Khan Mahomed’s

“branch should forfeit all right to succeed to

“the estate. — Paragraph 6 is as follows:—

“ ‘ Shaik Khan Mahomed will not probably

“ ‘ have another son of his own loins, but the

“ ‘ Right Honourable the Governor in Council

“ ‘ concurs with Mr. Ellis in considering that the

“ ‘ Waikar should be told that even if he have a

“ ‘ son, that son will not be allowed to succeed.

“ ‘ . . . The forfeiture was imposed on ac-

“ ‘ count of the fraud practised by Shaik Khan

“ ‘ Mahomed. His name also was struck off the

“ ‘ list of Sirdars, and although subsequently the

“ ‘ name was re-entered, for certain reasons the

“ ‘ order of forfeiture was not rescinded. It

“ ‘ appears to me, therefore, that any property

“ ‘ the succession to which Government has the

“ ‘ power to regulate should go to Shaik Abdul

“ ‘ Kadar’s heir, Ajmodin, both on the grounds

“ ‘ of the former decision, and because of the

“ ‘ great wrongs which Khan Mahomed inflicted

“ ‘ on his brother.’ ”

On the 27th March 1874 the Government

confirmed Baron Larpent's report in the following terms (Rec., p. 82) :—

“ Resolution,—The proceedings of the Agent for Sirdars are approved, and for the reasons given by Baron Larpent, Shaik Ajmodin should be recognized as the head of the family, to whom the saranjam should be continued. To avoid disputes the allowances for maintenance of the widows of the deceased Shaik Khan Mahomed and Shaik Abdul Kadar, and of any others who have a claim for maintenance on the estate, should be settled by order of Government after receiving the recommendation of the Agent.

“ The allowances now paid to Shaik Rakmodeen and to Rahimanbee, under Government letter, No. 1293, of 28th March 1861, should be continued.”

And on the 18th June 1874 Lord Salisbury, as Secretary of State in Council, expressed the Government's approval of the above Resolution in these terms (Rec., p. 84) :—

“ In reply to the letter of your Excellency's Government in this Department, No. 17, of the 4th May 1874, in which you report the death of Khan Mahomed Waikar, and the nomination by you of his kinsman Ajmodin, a lineal descendant of the first British grantee, as the head of the family, to whom the saranjam should be continued, I have to inform you that I see no objection to this arrangement. Shaik Khan Mahomed's fraud in endeavouring to obtain the succession of a supposititious child having been punished by the exclusion of his own progeny from the succession, Her Majesty's Government can only express their hope that the branch of the family now installed may prove itself worthy of your selection.”

In pursuance of these Resolutions the whole



of the jaghir and inam incomes were made over to Shekh Ajmodin, and the agent and the administrators of the estate which had been taken into the hands of the Government called on all persons to acknowledge him as owner (Rec., p. 15). On the 6th October 1876 Colonel Etheridge, the Alienation Settlement Officer, reported as follows (Rec., p. 148):—

“ He (Colonel Etheridge) is of opinion that as Government have sanctioned the adoption, the whole estate intact, saranjam and inam, as restored after the war, under the treaty of 3rd July 1820, is continuable as a guaranteed estate to the adopted son (Ajmodin) as the head of the family, and should be entered in the accounts accordingly, the same as all other treaty estate of mixed saranjam and inam.”

On the 6th November 1876 Colonel Etheridge's report was confirmed by the Government in the following Resolution (Rec., p. 122):—

“ The suggestions of the Alienation Settlement Officer are approved, and should be carried out.”

Thus it appears that the Government, on the death of Khan Mahomed, resumed the saranjam held by him, and re-granted it to Ajmodin, on the ground that the Government has the right to resume jaghirs. It is not to be supposed that this right would be exercised capriciously, but, assuming it to exist, it would not be competent for any Court to review this decision of the Government on the ground that the reasons upon which it proceeded were erroneous. This Board, therefore, does not feel called upon to express any opinion upon the question whether the spurious birth of Sultan Sani has been established. Their Lordships, however, see no reason to doubt that the inquiry by Lieutenant Sandford was conducted in a judicial manner, and that full opportunity was

given to the accused to cross-examine the witnesses called against him, and to call witnesses in his favour. The good faith of Lieutenant Sandford and his coadjutor, Gopalrao Hurry, has not been called in question, and the various persons whose duty it has been to consider the findings of those officials have arrived at the conclusion that there was no ground to set aside those findings. Their Lordships are of opinion that the question to whom a saranjam or jaghir shall be granted upon the death of its holder is one which belongs exclusively to the Government, to be determined upon political considerations, and that it is not within the competency of any legal tribunal to review the decision which the Government may pronounce. This principle is clearly expressed, not for the first time, in Bombay Act VII. of 1863, Sect. 2, Clause 3, and is recognized in cases where the question has been raised.

Thus far as to the saranjams claimed by the Appellant. It has been contended that a different question arises with regard to the inams. Their Lordships, however, are of opinion that no distinction can be drawn between the inam and the other property in question. As has been pointed out, the sunnud of 1785 included the inam villages and lands with the mokasa as parts of one saranjam for the support of troops. The effect of the treaty of the 3rd July 1820 was to continue to Shekh Mira the whole of the property, including the inam as a personal and military jaghir. This was done by the Government on political considerations, and the tenure thereby created was political. This was the view taken by the Government in 1876, when it adopted the report of the Alienation Settlement Officer, that "the whole estate intact, saranjam" and inam, as restored after the war under the "treaty of 3rd July 1820, is continuable as a

“ guaranteed estate to the adopted son ” (Ajmodin) “ as the head of the family.”

Their Lordships therefore concur in the opinion expressed by the Governor in Council that a mixed estate of saranjam and inam was granted by the treaty of July 1820, to be held on the same political tenure, and passed intact to the person whom the Government might recognize as the head of the family, and that it is not competent for any court of law to dispute it.

In this view of the case it is unnecessary to consider the various other questions which have been discussed on the argument of this appeal.

Their Lordships will humbly report to Her Majesty that the decision of the Governor in Council be affirmed. The Appellant must pay the costs of the Appeal.

---

