



George L.
H. Holland

WRITINGS AND SPEECHES
OF THE
LATE HONOURABLE RAO SAHEB
VISHVANATH NARAYAN MANDLIK, C. S. I.,

॥ नहिमत्यात्परोधर्मः ॥

EDITED BY
NARAYAN VISHVANATH MANDLIK B. A.,

WITH
A SKETCH OF HIS LIFE,
BY
DAMODAR GANESH PADHYE, M.A.,
PRINCIPAL, GOULDAS TEJPAL HIGH SCHOOL.

1896.

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BOMBAY:

PRINTED AT THE "NATIVE OPINION" PRESS.

PREFACE.

In the following volume I have carried out a long cherished design of collecting, so far as might be found possible, all the writings and speeches of my late lamented father. I hope it will be considered that in this I have done the public a service, as well as discharged, to the dearest and most honoured of parents, a pious debt. A glance at the table of contents will indicate even to the stranger in the matter how varied and how fruitful were the services to his countrymen of Rao Sahab Vishvanath Narayan Mandlik. Those who admired, and those who shared his public labours in Bombay and in India generally, will alike be glad, I believe, to have this permanent, if imperfect, record of his work.

I am gratefully indebted to my cousin Mr. Damodar K. Karandikar, Pleader, High Court, for the assistance he has given me in putting this volume together and in seeing it through the Press. And I have to thank no less heartily, Mr. Damodar G. Padhye, M. A., for the sketch of my father's life which he has kindly contributed. I have also to thank my respected Professor, Dr. P. Peterson, for advice and assistance always generously put at my disposal.

N. V. MANDLIK.

The Hermitage, Cumballa Hill,
Bombay, 13th August, 1896.

APPENDICES*

[TO THE
PAMPHLET ON THE
BOMBAY REVENUE JURISDICTION BILL]

APPENDIX A.

Extracts from the "Gazette of India," showing the progress of the Bombay Revenue Jurisdiction Bill, 1873.

(From the Gazette of India, 16th August 1873.)

THE Hon'ble Mr. Ellis moved for leave to introduce a Bill to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the land-revenue.

He said that the proposed Bill referred to the Bombay Presidency alone, and it would be asked why, under these circumstances, it was to be dealt with in this Council? The reason was that the two points which were embraced in the Bill could, neither of them, be dealt with by local legislation. One of the points involved the repeal of a portion of an Act passed in this Council, and the other affected the jurisdiction of the Bombay High Court, and, therefore, could not form matter for consideration in the local Council. The first and minor point embraced in the Bill was this. When the Land Improvement Act of 1871 was being passed, it was thought proper to repeal certain former enactments having reference to the subject of *takavi* advances, which were to be provided for in that Bill. Section 13 of Regulation XVII of 1827 of the Bombay Code provided the means of recovering such *takavi* advances, and to that extent was properly included in the schedule of the Regulations repealed by the new Bill. But it was unfortunately overlooked that

* These papers have been reprinted to enable readers to better understand the subjects discussed in the two pamphlet in which there are references to them in several places.

the same section also provided for the recovery of arrears of ordinary revenue, and whilst provision was being made for the repeal of the portion relating to *talukvi*, the whole section was repealed, thus taking away the legal means of the Bombay Government for recovering arrears of ordinary revenue. This was the inadvertence now to be remedied.

The second point to be embraced in the Bill was of greater importance, for the effect would be to restrict the jurisdiction of the Civil Courts of the Bombay Presidency in matters relating to the land-revenue. The necessity for the restriction arose in this way. Recently, several suits had been brought into the Civil Courts impugning the validity of assessments made by the Survey and Settlement Officers and confirmed by the Government. These suits had gone so far as to bring in question the amount of assessment, and the mode of making the assessment. Mr. Ellis would give a notable instance which had occurred quite recently. A landholder objected to an assessment of Rs. 4, placed upon his field by the Settlement Officers. This case was, on appeal, finally decided by the High Court in favour of the survey plaintiff, and it was ruled that the assessment of the officers of the survey could not be maintained, because it contravened a local rule of the survey that not more than one-sixth of the gross proceeds should be imposed as the assessment on any field.

Mr. Ellis did not mention this case with the view to criticise the decision of the learned Judges. It was not his province to do so, but he mentioned it in order to show what the effect of the decision was, if that decision were to be acquiesced in. The result was that the ordinary principles which regulated the Bombay system of survey and assessment were entirely upset; for there was, under that system, no local or other rule which required one-sixth of the gross profits to be the limit in assessment. The result, then, of the decision of the High Court—if we acquiesced in it—was that the principles of our settlement throughout the country would have to be modified, contrary to the opinion of those who were best able to judge. Such was the effect in this particular suit. In other cases, equally injurious effects might follow if the present practice were continued. For example, certain modes of assessment, and certain prin-

principles of assessment, might have been adopted by the State. Those modes and principles might not commend themselves to the learned Judges; and in cases practically involving broad political questions, and matters of State policy, the opinions of the Judges of the High Court might over-rule the deliberate decision of the Government here or in England. There were other minor evil consequences which followed on the present system. He need hardly say that if, under the Ryotwarri system in Bombay, every man was allowed to question in a Court of Law the incidence of the assessment on his own fields, the number of cases which might arise was likely to be overwhelming. The suit to which Mr. Ellis referred—one of Rs. 4 only—was an instance of the small amounts which might be brought into Court; and if cases of this kind were frequent, and the Survey Officers had to give evidence in each of them, the result would be that their time would be so fully occupied with such matters that they would be unable to attend to their duties, and the whole machinery of the Survey and Settlement Department would be disorganized. Moreover, it might be questioned whether Judges learned in the law, however skilled they might be to decide the cases ordinarily brought before them, were best fitted to deal with matters requiring special and technical knowledge, and which had been settled and decided by officers who had been all their service trained in this special branch of knowledge. Again, supposing the Judges to possess that knowledge, it was beyond question that the practice of referring disputes to other tribunals had the effect of impairing that good-feeling which usually existed, and which ought always to exist between the Revenue Officers and the people of the country with whom those officers had to deal.

For all these reasons, therefore, Mr. Ellis thought it undesirable that the present system should remain in force; and the Bombay Government, being of the same opinion, had applied to the Government of India for legislation on the subject.

Now, the Bombay Regulations to which exception was taken, and which it was proposed to alter, went much further in admitting the jurisdiction of the Civil Courts than did the law, so far as Mr. Ellis was acquainted with it, in any other province of India; and moreover, in a considerable portion of the Bombay Presidency itself,

the law as it now stood denied to Civil Courts the cognizance of revenue cases, which in other parts of the same Presidency had hitherto been cognizable by the Civil Courts. The extent to which jurisdiction should be barred was a matter for discussion. It was now being discussed between the Government of India and the Bombay Government, and, when finally settled, Mr. Ellis would explain what the details of the Bill would be. This could be better done at a further stage of the measure, if the motion he had now to make was accepted, and leave was given to introduce the Bill. On this occasion it was only necessary to mention that the proposed Bill would be so drawn as not to affect suits instituted previous to the present date.

The motion was put and agreed to.

(*Gazette of India, 6th September 1873.*)

The Hon'ble Mr. Ellis begged leave to postpone the introduction of the Bill to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the land-revenue. He said that when he asked leave to introduce the Bill, he explained that it would not be introduced until the details had been settled in full discussion with the Bombay Government. A reference had been made to Bombay, but sufficient time had not elapsed to allow of an answer being returned.

Leave was granted.

(*Gazette of India, 18th October 1873.*)

The Hon'ble Mr. Ellis introduced the Bill to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the land revenue, and moved that it be referred to a Select Committee with instructions to report in three months. He said that on a former occasion he had explained to the Council the object of the Bill, and he had then mentioned the reasons which had led the Bombay Government to request the Government of India to introduce the Bill into this Council. He would now briefly explain its provisions. Since the date when leave to introduce the Bill was given, there had been a correspondence with the Government

of Bombay as to the way in which the object of the Bill could be best effected. The Bombay Government had made certain suggestions, some of which had not been adopted, because they seemed to deal with matters which were hardly within the scope of the present measure. Others were perfectly in accord with the principle of the Bill, but were matters of detail, and might therefore very properly be considered when the Bill came before the Select Committee. In its general tenor the Bill appeared to meet the views of the Government of Bombay.

The principle of the Bill was briefly to exclude the Civil Courts from the jurisdiction which they now possessed in certain parts of the Bombay Presidency in respect to matters affecting the land-revenue. To this proposed exclusion, however, certain exceptions were made in the Bill. Revenue proceedings in the Presidency Collectorate were excluded, they being under a wholly different and separate law of their own. All matters relating to towns and cities, the revenue law of which was regulated chiefly by Bombay Act IV. of 1863, it was also proposed to leave untouched in this Bill, there having been recent legislation on the subject. Also it was proposed to exclude from the operation of this Bill all holdings of land partially or wholly exempt from the payment of land-revenue under Acts II. and VII. of 1863.

The reason for this was that it was not designed to interfere with the privileges of holders of revenue-free, or partially revenue-free, lands in this Presidency as secured to them under Acts of the Legislature so recent as 1863. Similarly, no interference was made in this Act with holdings under Act XI. of 1852; such holdings would remain on the same footing as they now were—and, in fact, all Acts in force relating to holdings to alienated land, whether under the Acts of 1863 or under the Act of 1852, were unaffected by the provision of the present Bill. In the first instance some slight amendments in Act VII. of 1863 had been proposed in order to make the law on the subject wholly consistent, but, at the suggestion of the Bombay Government, those proposed amendments had been omitted, so that those Acts would remain intact, and would not be interfered with by the passing of this Bill.

In the Presidency of Bombay generally, as Mr. Ellis had explained before, different laws prevailed in regard to jurisdiction in revenue matters. What was proposed was that these laws should, in future, be uniform throughout the Presidency. There was nothing in the present circumstances of the several districts to justify any difference of jurisdiction, and, as it was not expedient that the general policy of Government in relation to the land-revenue should be discussed in, or that the details of revenue assessment should be questioned by Civil Courts, it had been thought right to adopt that system which now prevailed in the Deccan, Khandesh, and the Southern Mahratta Country, in preference to that which was the law in the rest of the Presidency; and the Bill which Mr. Ellis now introduced accordingly excluded the Civil Courts from jurisdiction in the matters set forth in Section 3, namely:—

(1).—Claims against the Government to inams, or [to hold land wholly or partially free from payment of land-revenue, excepting always those expressly excluded under the previous section of the Bill which he had just mentioned;

(2).—Objections to the amount or incidence of any assessment of land-revenue, or to the mode of assessment, or to the principle on which such assessment had been fixed;

(3).—All disputes regarding public rent or revenue payable to Government, or complaints of exaction of district or village officers, stipendiary or hereditary.

The proposed course was also in conformity with the most recent legislation in respect to other provinces, as might be seen by reference to the Punjab Revenue Act (XXXIII. of 1871), Section 65.

Mr. Ellis had only to add that the second object to be provided for—namely, the rectification of an error in the passing of the Land Improvement Act of 1871—was secured by the fourth section of the proposed Bill, in that the form had been adopted of substituting for words which now stood part of the Land Improvement Act, other words which would bring matters back to the footing upon which they stood before the passing of the Act. This form

had been adopted instead of reviving the old section, in order that no interference might be had with the power of the Legislature of Bombay to deal with the subject, in the event of their deeming it right, at any future period, to alter the law; whereas if this Council re-enacted the old section, it would not be competent to the Local Legislature to deal with the Law on any future occasion.

The motion was put and agreed to.

The Hon'ble Mr. Ellis also moved that the Bill be published in the *Bombay Government Gazette* in English, and in such other languages as the Local Government might deem fit.

The motion was put and agreed to.

(*Gazette of India, 11th October 1873.*)

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 10th October 1873, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 21 of 1873.

A Bill to limit the Jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the Land Revenue.

Whereas in the Deccan, Khandesh, the Southern Mahratta Country, and certain other territories comprised in the Presidency of Bombay, the jurisdiction of the Civil Courts is limited in matters connected with the assessment and collection of the Land-Revenue:

And whereas it is expedient that the jurisdiction of the Civil Courts should be limited in like manner throughout the said Presidency:

And whereas it is also expedient to revive certain provisions of the thirteenth section of Regulation XVII. of 1827 of the Bombay Code, relative to the recovery of arrears of revenue, which were repealed by the Land Improvement Act, 1871;

It is hereby enacted as follows :—

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1873:"

It shall come into force on the passing thereof ;

And it shall extend to all the territories under the Government of the Governor of Bombay in Council, but not so as to affect—

(a) any suit regarding the assessment or collection of revenue on land situate in any place which is a town or city within the meaning of Bombay Act No. IV. of 1868, or situate in the Presidency Collectorate ;

(b) any suit by a person claiming to hold land wholly or partially exempt from payment of land-revenue, under a guarantee or Sanad given by the Governor of Bombay in Council under Bombay Act No II. of 1863, Section 1, clause first, or Bombay Act No. VII. of 1863, Section 2, clause first; or

(c) any suit instituted on or before the 7th day of August 1873.

2. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column thereof.

(3.) Notwithstanding anything contained in Bombay Regulation XVI. of 1827, Section 6, clause first, or in Section 25 of the Bombay Survey and Settlement Act, or in any other law now in force, suits involving any of the following matters shall not be cognizable by the Civil Courts :—

(a) Claims against the Government to inams, or to hold land wholly or partially free from payment of land-revenue ;

(b) Objections to the amount or incidence of any assessment of land-revenue, or to the mode of assessment, or to the principle on which such assessment has been fixed ;

(c) Disputes regarding public rent or revenue payable to Government, or complaints of exaction of district or village officers, stipendiary or hereditary.

4. At the end of the schedule annexed to "The Land Improvement Act, 1871," instead of the words "section thirteen," there shall be read the words "The following words in section thirteen (that is to say) 'and demands on account of money advanced as *takavi*,' and 'or of advances for former years.'"

SCHEDULE.

(See Section 2.)

BOMBAY REGULATIONS.

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
XVII. of 1827.....	A Regulation for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the land-revenue, &c.	In Section IX., clause <i>second</i> , the word "either" and the words "or my file an action against the Collector in the Civil Court under the ordinary rules, or he may pursue both methods at the same time." In the same section, clause <i>third</i> , the words "but the reference to Government shall have no effect upon any suit instituted in the Civil Court." Section XVI., clause <i>fifth</i> .
XXIX. of 1827.....	A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Deccan and Khandesh.	Section VI., so much as is not repealed.

STATEMENT OF OBJECTS AND REASONS.

At present the law determining the limits of the jurisdiction of the Civil Courts, in matters relating to the land-revenue, is not uniform throughout the Bombay Presidency.

In what (looking to the order in which they became known to the Legislature) may be termed the older districts, suits regarding the Government land-revenue may be brought in the Civil Courts, even to impugn a particular assessment on lands admitted to be open to assessment.

In the newer districts, on the contrary, all such matters are expressly excluded from the cognizance of the Civil Courts.

The Government of Bombay have recently brought to the notice of the Government of India a case in which an assessment made by the Survey Officers, under the twenty-fifth section of the Bombay Act I. of 1865, was reduced by a Civil Court; and have strongly urged the inexpediency of continuing to the Civil Courts in one portion of our territories a jurisdiction which they are precluded from exercising not only in other parts of the Bombay Presidency, but elsewhere in India as well.

It has been considered that the best and simplest course is to place matters on substantially the same footing in the older districts as they at present stand on in the newer districts, and to effect this is the main object of the present Bill.

The Bombay Act VII. of 1863 (for the summary settlement of claims to exemption from revenue), which is the law for the older districts, and Act II. of 1863, the law for the newer districts, are both maintained intact.

The present opportunity has been taken to revive (in Clause 4) certain provisions of Regulation XVII. of 1827 (Bombay), which were inadvertently repealed by the Land Improvement Act, 1871.

SIMLA,
16th September 1873.

B. H. ELLIS.
WHITLEY STOKES,
Secy. to the Govt. of India.

[APPENDICES TO THE HISTORY OF THE
VATANDAR KHOTES. SPECIMENS OF SANADS.]

APPENDIX B.

(Translation of copy of a Sunud in Marathi.)

Extract, being sunnuds appertaining to the *khoti* village of Khajoo Turf Hatkhambe entered under the heading of Dufate* Patra in the Roz Kird (daily proceedings) of His Excellency Rajeshri Pant Pradhan, held before Rajeshri Balaji Janardhan Fadnis at Poona from the lunar date the 1st of the month of Jelhej to the 2nd of that month ending the year, in the year Arba Sitain Maya wa Alaf.

(SEAL.)

Sakho Luxuman and Ramchundra Sadashiv, Surname Vedne, Surpotdar† of Turf Khilna, and *khot* of Mouza Khajoo Turf Hatkhambe of the Soobha‡ Prant§ Rajapoor, having come over to the Hoojoor seat at Kusba || Poona, represented that their ancestors continued from days of yore (and) from the first to enjoy the *khoti wattan* of Mouza Khajoo; that their great-great-grandfather, Poorooshotum Narayan, lately expended money in securing "Pat water," or water course, near their *khoti* house; that by constructing [*bunds to*] brooks (he) created new rice-fields, planted trees, and built a house (on a) raised square of stone-work, and held enjoyment of the *wattan*; that it was lately, in consequence of a disturbed state of affairs occasioned by lawless domination, he left (the village) and wandered in distressed circumstances, and the village

* A general memo-book containing notes of occurrences and a register of letters.

† An officer under the native Governments, whose business it was to assay money paid into the treasury.

‡ Province.

§ A sub-division of a country or district.

|| The chief town of a mahal or purgana.

became desolate. That after some days had elapsed, their *choolat* great-grand-father,* Govind Poorooshotum, peopled the village and cultivated (the lands thereof); that he kept one Keso Roodra Bhatawadekar in his house at the said village as his *mootalik†* for managing the *khoti*; that he (the said Keso) and one Krishna Prabhob Bendre Devgharkar held the management of the *khoti* of the village as *mootaliks* for some days; that in consequence of the absence of their ancestors from the village, the *badhe kari‡* *khots* lately held the *khoti* for some days as *badha§*. That thereafter their great-grandfather, Shamji Rungnath, held the *khoti* for some days during the administration at Ratnagiri of Dhondo Bhaskar by cultivating (the lands of) the village, and by peopling the same; after which he left it for Vishalgad; that, from that time forward, for fifty (or) sixty years, the *badhakarīs* held the *khotship* (and) their enjoyment ceased that it was now in the year Sun Siten that the ryots of the village came to them and said—"You should take up (the management of) your *khoti wattan*;" that thereupon their uncle and one Keso Mahadew came over to the village, and they sent for and brought, thither the Surdesh Koolkarni of Turf Khilna, Bhikaji Trimbak and the Peshah (or karkoon) of the mahal. In the presence of these individuals, the villagers pointed out to them their stone-built houses, fields, trees, &c., and said to them—"You take up the fields; they are your *wattani*;" that thereupon they encouraged the ryots and cultivated (the lands).—but as this information was not given to the Sirkar, the Subhedar of Talooka Ratnagiri, Rajeshri Moroji Shinde, placed the *khoti wattan* in Government (books under the heading of) "Amanat,"|| and ordered them to bring a sunud in respect thereof from the Hoojoor¶ (authority); that thereupon their kinsman, Gangadhar Trimbuk, brought the above particulars in respect of the

* i. e., the great-grandfather's brother.

† A deputy who had power to use the seal of his principal.

‡ A person residing in one village and cultivating land belonging to another.

§ Lands without a master.

|| Any item (of receipt or of disbursement) not brought to regular account.

¶ The royal court or presence.

khote to the notice of the Sahib at Poona—the *Swami** accordingly granted a sunud over the soobha for the purpose of considering the issues (and) the evidence by holding investigation into the matter, and deputed Gangadhar Keshaw, Desai of Turf Kalve Majgam, who was the Sirkar's karkoon, to the soobha for the purpose; that, in obedience to the orders, Moroji Shiade, through the medium of the Sirkar's karkoon, Gangadhar Keshaw, took down the evidence of the *mahalkar*† and the village people at the soobha in the temple of Shri Ganpati. Thereupon, taking into consideration (from what had passed) the fact of there being in their possession a letter of protection dated Rowdra Sunvutsure Shake, the year in which the inauguration to the throne (ceremony) took place, from the late (deceased) Shrimunt Maharaja Shaumbhoo Chhutrapati *swami*, the Panchayat‡ (assembled) held it proved that the *khote wattan* from days of yore belonged to them. Accordingly Rs. 400 was obtained from them at the soobha as *nujur* (present), and their *khote wattan* was restored to them, and the restoration was accompanied by letters. A letter of request was also given to the *swami* (lord or master). They therefore prayed for orders being issued to furnish them, on a consideration of the same, with a *wattan patra* of enjoyment of the *wattan*, and they produced the record of decision by the soobha, as also the *bukhar*, or account, that had been sent to the Sirkar from the soobha along with the said *Rajpatra*. On referring to the said papers, and on sending for the evidence of the witnesses examined at the soobha in the temple of Shri in the presence of Gangadhar Keshaw Desai, and referring the same for consideration to the Panchayat, the Panchayat held it proved that the *khote wattan* of the village was their own, and what (the authority at) the soobha had found was held to have been rightly done. This letter is therefore hereby given to them to support their enjoyment. They therefore should continue to enjoy the *khote* of the village which has been their *khote wattan* from days of yore, themselves, their sons (and) grand-sons, and so on, from generation to generation, and they should live happily. The *nujur* in respect of the *wattan* due by

* Lord or master.

† A revenue or police officer in charge of a mahal.

‡ An assembly of arbitrators.

them under the two administrations of *Kool** Bab according to (their) circumstances to the Sirkar had been agreed upon to be Rs. 501 (in letters five hundred and one). Out of this, 400 (four hundred) has been credited at the soobha of Rutnagiri last year, and the remainder, Rs. 101 (one hundred and one) has been paid into the Hoojoor Treasury, as is borne out by letters from Chitnis.

(Issued)

1 In their name.

1 To Moroji Shinday of Talooka Rutnagiri.

1 To Deshmookh Deshpande of Turf aforesaid.

—
3

Shreez.

Entered.

Three letters in all have been issued on the lunar date the 2nd of Jelhej which have emanated from duly accredited agents.

Translated by me,

GUNESH KESHAV WAIKYA,

Translator.

—————
(Translation of an Extract in Marathi)

Extract, being a suud on account of the *Wloti* of the village of Mouza Oosar Turf Ghosalai, entered under (the heading of) Dufate† Patra subordinate to Botkhat‡ of the Roz Kird (daily proceedings) of His Excellency Rajeshri Pant Pradhan, held, before Rajeshri Balaji Janardhan Fadnis§ at Poona, Soorsun Khammas Sitain Maya wa Alaf (1165)|| the lunar date the . . . ¶ Moharam (July).

* Lands held as perpetual estate under acknowledgment and payment to Government.

† A general memo. book containing notes of occurrences and a register of letters, &c.

‡ A string of several accounts.

§ The keeper of registers.

|| A. D. 1764-65.

¶ Blank in the original.

(SEAL).

To Govindrao Mankar and Chimaji Mankar. (This) sunud (is) as follows :—Terms having been settled according to the practice (or usage) of the country in respect of *khoti* for the giving of the village of Mouza Oosar Turf Ghosalai Prant Rajpoori to Rajeshri Venaik Dhondo, the same has been given, and this sunud is sent over to you. If the aforesaid village, therefore, does not appertain to the *wattan* of any person, you will give over (the same) to the above-named individual on *khoti* from the current year according to the practice (or usage) of the country, and have the collections in respect of the village realized through him. For this purpose (this) sunud (was granted) to the above-named individual on the lunar date the 4th of Moharam (4th July 1764.)

Shri

Rasangi* yadi.

Hoor (entered).

Translated by me,

BAL BHASKAR SHINTRE,

Translator.

15th March 1869.

(Translation of a Sunud in Marathi.)

Extract, being a letter relating to the *khoti* village of Mouza Kuradvare Turf Sangmeshwar, entered in the Dufate† Patra of the Roz Kird (i. e., the daily proceedings) of His Excellency the Rajeshri Pant Pradhan, dated the 3rd Ramjan of the year Sit Sitain Maya wa Alaf (A.D. 1765-66.)

(SEAL).

Kazi Shabudin and Kazi Abdoola, sons of Kazi Ali, the *khots* of the village of Mouza Kuradvare, Turf Sangmeshwar, having appeared before the Hoojoor, represented as follows :—The *khoti* of the aforesaid village was of old ours. During the administration of Angria

* Memo. issued by a duly accredited agent.

† A general memorandum book containing notes of occurrences and a register of letters, &c.

the business and duties of the *khoti* were conducted by a Gumasta, or deputy. At the close of the administration of Dulaji Argria, Rudraji Dhnlap having come to Jyaghar summoned the zamindars of the country, and, having demanded from them the revenue for the next year, detained them. Our Gumasta also was detained on that account. On the other side, Khandoji Mankar came to Devarukha and having issued orders for the revenue due to his State, summoned the villagers before him, when the Gurav of the aforesaid village, who was a clever man, went there. He having won the favor of the Mankar, assumed the duties of the *khoti*. Since that time, for the last eight or nine years, the Gurava have been conducting the duties attached to the *khoti*. Formerly His Excellency the Scrimanta Bhanu Sahab requested Rama Shastri to look into the particulars of this case. On his (Rama Shastri's) doing so, the *khoti* was proved to be ours. But before we could enter into possession after the issuing of the usual letters and documents, your Excellency proceeded on a tour to Hindoostan. Therefore, and as we were too poor to afford to incur the expenses of repeatedly coming to the Darbar, the matter rested so up to this day. We now pray that, on a perusal of the orders of Idalsha Padsha, and other documents which are in our possession, and on a consideration of the evidence of the Jamidars as to the fact of the *khoti* having been held by us from an old period, the *khoti wattan* may be delivered into our possession." On a consideration, therefore, of the circumstances relating to the *khoti* of the said village with the aid of the opinion of the Panchayat, and on looking into the evidence afforded by the papers of the Jamidars as to uninterrupted enjoyment, it having been found that the *wattan* is an ancient *wattan* of the Kazi, this letter is issued to you. After issuing therefore, an injunction to the abovenamed Gurav, you are to put the aforesaid Kazi in possession of the *khoti* of the village in question, and to continue in the Kazi's possession all the lands and water-courses, whatever there be of old attached to the *khoti*. To this effect is issued a Chitnivisi letter to Moroje Side Jamjad, Talooka Ratanagiri. To the same effect an order to Vissaji Keshew, Pant Wasai.

(A true translation.)

SHAMRAO VITHAL,

Translator.

(Translation from Marathi.)

Extract, being a letter relating to the *khoti* of the village of Kurbude, Turf Kelyen Mazgam, entered in the Dufate* Patra of the Roz Kird, or daily proceedings, of His Excellency the Rajeshri Pant Pradhan, dated the 22nd Sabon of the year Saman Sitain Maya wa Alaf (A.D. 1767-68).

(SEAL,)

Balaji Jivaji, surnamed Sahasrabudhe, of the Gotra (family) of Shandilya and Sutra (faith) of Ashwalayan, the Desai of Turf Kalpe Mazagam, Subha of the said Prant, having appeared before the Hoojoor, represented as follows:—"The *khoti wattan* of the village of Mouza Karbude, Turf Kalpe Mazgam, Subha Prant Rajapoor, formerly belonged to Rudraji Mahadeo Devrukhe. In consequence of his family having become extinct, the *khoti wattan* has been under the Diwan since many days. The Revenue thereof is collected at Rutnagiri, from the cultivations out of the *thal*,† which circumstance is known to Dadoba Naik Sar-Desai of the Prant of Rajapoor. If the *khoti wattan* of the village in question be granted to me on terms settled, I will go on paying to the Government the assessment that may be fixed after inspection, and after settlement of the revenue according to usage. I, therefore, pray that your Excellency may be pleased to grant the *khoti wattan* on terms from Government, and issue letters for enjoyment." On a consideration of this, and from the account given to the Hoojoor by Dadoba Naik, it appears that owing to the failure of the line of the *khot* of the village in question, the *khoti wattan* has remained in the hands of the Government, and that the revenue has been collected from you out of the *thal*.

Therefore, and considering that if the *khoti wattan* be granted to him he would bring the same into cultivation and improve it, I have the pleasure to confer upon him on *wattani* terms the *khoti wattan* which was in the hands of the Sirkar. Therefore he, his sons grand-sons, and successive generations are to enjoy the *wattan*, the

* A general memorandam book containing notes of occurrences and a register of letters, &c.

† The portion of the produce due from the cultivator or ryot to the *khot*.

manpan, thikanst, fields, &c.*, as usual, and to go on paying the revenue to the Sarkar according to the usage of the country, and hold possession of the watan. Thus (it is recorded).

SEAL.)

2 Farnivisi sunuds.

1 In the name (of the grantee).

1 To the ryots of the village in question, to the effect they should appear before the grantee, and conduct themselves under his directions in the manner of ryotship.

3 Chitnivisi.

1 To the present and future authorities and writers of the country in the Talooka of Rutnagiri and Prant of Rajapoor.

1 To the Deshmookh and Deshpande-Turf Kalpe Mazgam in the Subha of Rajapoor.

1 To Karishnaji Hari, Talooka Rutnagiri. Letters have been issued and granted for enjoyment. In accordance therewith, you are to make over (to the grantee) the *manpan, thikans, and fields; &c.*, appertaining to the *khoti of the village* in question as usual, and receive the revenue of the village from Balaji Jivaji from the current year.

3

5

(SHRI)

In all, five sunuds and letters having been delivered; the sum of Rs. 2,000, on account of the *nazarana* due to Government as agreed upon, has been paid into the Government Treasury.

(A true translation.)

SHAMRAO VITHAL,

Translator.

* Rights and privileges.

† Lands.

(Translation of Copy of an Extract in Marathi.)

Extract, being a letter about the giving of the village of Mouza Palchoori Turf Foongoos Prant Rajapoor Talooka Rutnagiri on *khoti* entered under (the heading of) Dufate* Patra of the Roz Kird (daily proceedings) of His Excellency Rajeshri Pant Pradhan Soorsan Saman Sitain Maya wa Alaf, the lunar date the 14th of the month of Moharam (1168†—12th June 1767)

To Mahadaji Bahirao surnamed Pethe Wasishta Gotra (or lineage), Hiranya Keshi Sutra (line), Taetiriya Shakha (branch). In the Shak 1690, the name of the year being Sarvadhari, this *wattani patra* is given as follows:—Your son Ragho Mahadeo, having come over to the Hoojoor at the kusba of Poona, represented that the Gayali (or deserted) *khoti wattan* of Mouza Palchoori Turf Foongoos Prant Rajapoor was long held by Government; that the collections in respect thereof were made from the ryots (in the shape of) *thal* (i. e., rents); and that, on making enquiries, should the *swami* (i. e., we) be pleased after settling terms to grant to him the *khoti wattan* of the village aforesaid which was held by Government, he would go on collecting and paying to Government the Divan Dust (or assessment due to them) according to the practice (or usage) of the country. Thereupon, taking into consideration the fact that the *khoti wattan* of the aforesaid village, which has been deserted, has long been held by Government, and that the Government assessment of the village has been realized in the (shape of) *thal* (i. e., rents), we find that during the administrations of Ramchundra Nilkant Amatya and Sakhoji and Sambhaji and Toolaji Angrya Sarkhails,‡ and lately from the time of the administration having passed into the hand of the Government in the year Sit Khamseen (1156)§ to this day the *khoti wattan* has been with Government, and, on looking into the record and proceedings connected with the management of villages, (we find that) there are no *mirasdar khots* for deserted *wattans*.

* A general memo. book containing notes of occurrences and a register of letters, &c.

† A. D. 1767-68.

‡ Title of certain Maratha princes under the Peshwa.

§ A. D. 1750-51.

Being aware that you have a large family, and that it is necessary to provide for you, we are pleased now to settle terms, and grant to you, (your) sons, grandsons, and so on, from generation to generation the deserted *khoti wattan* of the aforesaid village which was with Government. Do you therefore take the *khoti wattan* of the village aforesaid into your charge and enjoy yourself, your sons, grandsons, and so on, from generation to generation, the *hakdam* (rights and claims), *manpan* (titles and privileges), and other Kanoon Kayedas (rules and regulations) connected therewith according to the custom of the surrounding villages, as also *thikans* and fields and water of the water-courses, and to collect the Government assessment of the village according to the usage of the country and live happily. For this purpose the sunuds and letters (are as follows):—

Sunuds.

- 1 In the name.
 - 1 To the ryots of the aforesaid village.
-
- 2 Letters from the Chitnis (or correspondence).
 - 1 (To) the present and future authorities of the country and writers of Prant Rajapoor.
 - 1 The Jamidar of Turf Poongooos.
 - 1 Krishnaji Hari Kamavisdar of Talooka Ratnagiri Rasa* Ra Yadi.
-
- 3

Hoor (entered).

On account of the aforesaid *wattan*, currency Rs. 2,001, namely, rupees two thousand and one, were agreed (to be received) from the abovenamed individual. The same were received (or credited) in the Hoojoor Treasury in the year Tisa Sitain (11†] 69).

Translated by me,

HARISCHANDRA SHAMRAO,

Translator.

15th March 1869,

* A memo. issued by a duly accredited agent.

† A. D. 1768-69.

(Translation of Copy of an Extract in Marathi.)

(SEAL)

Extract, being letters about the giving of the village of Mouza Waladay Turf Chiploon Talooka Anganwell Soobha Prant Dabhol entered under (the heading of) Dufate* Patra in the Roz Kird (daily proceedings) held before His Excellency Rajeshri Pant Pradhan on the lunar date the 28 of the month of Sahaban in the Soorsan Sabayeen Maya wa Alaf (1170—27th December 1769).

Santaji bin Yesji Atbar, Khot Wattandar of the village of Waladay Turf Chiploon Talooka Anjanwell Soobha Prant Dabhol, having come over to the Hoojoor,, represented that the *Khoti* of the aforesaid village was his ancient *wattan* ; that formerly there was a disturbance in that Prant, in consequence of which he went to, and resided in, the Bassein Prant; that subsequently two (or) four persons were carrying on as *badhewayika*† the *khoti* (management); that afterwards, on the administration of the aforesaid Prant passing into the hands of Government, Dhondji Thanga Chiploonkar, brother of Babooji Sinday Jamidar Sirkar, carried on as *badhewayik* the *Khoti* (management) up to the year Saman Setain ([11]‡ 68), and he requested that the *Khoti* of the aforesaid village, being his ancient *wattan*, should now be made over and continued to him. (He further represented that,) when the sunud from the Sirkar was sent over to the Sir-Soobha in the year Saba Sitain (11§67) a letter was sent by the Sir-Soobha to the address of Rajeshri Krishnaji Wishwanath, Soobheddar of Talooka Anjanwell of the Soobha Prant aforesaid ; that he (Soobheddar) therefore raised objections on the ground, that he (the applicant) was for a long time absent from the village, and required that all doubts as to his having been a right-ful *wattandar Khoti* should be removed; that he (the applicant)

* A general memo. book containing notes of occurrences and a register of letters, &c.

† Persons acting as *wattandars* in villages in which they have no *Wattans* of their own.

‡ A. D. 1767-68.

§ A. D. 1766-67.

then represented that the Jamidars and the *wattandars* of the surrounding villages, as well as the ryots of the aforesaid village might be sent for and examined as witnesses on his behalf; that if they deposed in his favor, his *Khoti* should be made over to him; that thereupon the Jamidars and *wattandars* of the surrounding villages and the ryots of the village having been called together at the Soobha, and examined on his (the applicant's) behalf, it was proved that the *Khoti wattan* was his; that, his circumstances having been taken into consideration, a *nazar* (or present) of Rs. 150 (namely) one hundred and fifty for the Sirkar was agreed to be taken from him; and that on a resolution having been passed in the Soobha, and on the *nazar* (or present) having been received into the Sarkar, the *Khoti* was made over to him; that the *khoti* accordingly continued with him, but that for the enjoyments (thereof) he should have letters from the Hoojooors, and he therefore requested that, after looking into the Sahebi Soobha's letter, which was with him, we would be pleased to grant Government letters for enjoyment, and he brought and shewed a resolution by Krishnaji Wishwanath, Soobheddar of the aforesaid Talooka. Thereupon, taking into consideration the facts that the *Khoti* of the aforesaid village has been proved by the evidence of Jamidars, the people of the surrounding villages, and the villagers to have belonged from ancient times to Santaji bin Yesji Athar as *wattan*, and that on the receipt of Rs. 150 (in letters) one hundred and fifty as a *nazar* (or present) from the aforesaid *Khot* by the Sirkar in the Soobha, the Soobha resolution was passed, and that the *Khoti* was made over to him; and he having applied for Government letters for the enjoyment (thereof), these letters are sent over to you; therefore the *Khoti* of the aforesaid village, with the right of *manpan* appertaining thereto as has from before been held, should be continued to him, his sons, grand-sons, and so on from generation to generation, and the collections of Government revenue should be realized through him according to the practice (or usage) of the country. For this purpose the letters from the Chitnis (or correspondence department) sent (are as follows):—

- 1 In the name of Santaji bin Yesji Athar, *Khot* of the aforesaid village.

- 1 To the present and future authorities of the country and writers of Talooka Anjanwell, Soobha Dabhol.
- 1 (To) the Deshmookhs and Deshpandes of Turf Chiploon of the Talooka aforesaid.

3

SHRIR.

Hoor (entered)

(SEAL)

Translated by me,

HARISCHANDAR SHAMRAO,

Translator.

15th March 1869.

(Translation of Copy of a *Sunud* in Marathi.)

(SEAL.)

Extract, being sunuds in respect of the grain of the *Khoti* of Mouza Bondivde Turf Soundal Prant Rajapoor, entered in the Roz Kird* (daily proceedings) of His Excellency the Pant Pradhan under the heading of Dufate* Patra subordinate to Botkhat, † held before Naro Apaji at Poona the lunar date the 5th of (A. D. 15th May 1774) Rubilakhar Soorsun Khamus Sabain Maya wa Alaf.

Balaji Govind, surname Apte, Gotra ‡ Koushika, Sutra Hiranyakeshi, § Shakha Taitirya, Mokadam || of Mouza Gothne Devache Turf Rajapoor Prant Rajapoor, having come over to the Hoojoor seat at Kusba Poona, represented that out of the third share belonging to Hurshet and Vitshet and Lukhamshet and Gondset Bin Mulshet Kohate consisting of *Khoti miraski, koolkarna*

* A general memo. | book containing notes of occurrences and a register of letters, &c.

† A string of several *khatas* or distinct accounts.

‡ Family or race.

§ Epithet of Shakha.

|| A title of Patel or managing authority of a village.

manpan, and *devdevaski** rights appertaining to the village of Bandivade Turf Stundal Prant Rajapoor, as also of the lands, house (or houses), rice, jungle and garden (lands), trees, together with the tenements deserted by a kool (contracting farmer or tenant), a moiety [or] a one-sixth portion of the entire village was sold to him by them of their free-will on receiving rupees one thousand three hundred and one as purchase-money, and executed a deed of sale in Shake 1863,† the name of the year being Khar Sunwatsure; that the enjoyment continued with him in accordance therewith, and prayed that the *Swami*‡ will be pleased to grant (him) Government letters of enjoyment on referring to the deed of sale. Taking therefore into consideration the fact of the sale of their free will by Harshet and Vitshet and Lukhamshet and Gondset bin Malshet Kokate to him of a moiety of their third share (or) a one-sixth share of the entire village in the *Khoti miraski*, *Koolkarna*, *manpan*, *devdevaski*, &c., rights appertaining to the aforesaid village, together with the lands, house, rice-land, *warkus* jungle, and garden (lands) and trees, with the tenements deserted or abandoned by tenants therein, on receiving rupees one thousand three hundred and one, and the fact of a deed of sale having been executed which had been presented for inspection at the Hojjoor, and on referring to the said deed of sale, the Sirkar is graciously pleased to grant a moiety of the third share (or) a one-sixth share of the entire village as mentioned in the deed of sale, consisting of *Khoti miraski*, *Koolkarna*, *manpan*, and *devdevaski*, &c., rights appertaining to the said village, with the lands, house (or houses), rice *warkus* jungle and garden lands, trees with the tenement deserted by *Kools* or tenants thereof. Therefore he, his sons, grand-sons, &c., shall enjoy from generation to generation the *wattan*. To this effect run the sunuds which bear the lunar date the 15th of Jelkad.

2 Sunuds.

- 1 There is on record a copy containing particulars as regards the name.
- 1 To Mockadam of mouza aforesaid.

—
2

* Annual ceremonies in honor of the tutelary deity of the village.

† A. D. 1771-72.

‡ Lord or master.

2 (Sunuds) emanated from Chitnis.

- 1 To the present and future authorities at the Turf Soundal Prant Rajapoor.
- 1 To Deshmook, and Deshpande of Turf Soundal Prant Rajapoor.

—
2

—
4

This sunud has emanated from the duly accredited agent, Poorundhar. The *nazar* agreed to in respect of the said *wattan* (Rs. 65) sixty-five has been paid into the Government Treasury.

Shreer Hoer (i. e., entered)

Translated by me,

GANESH KESHAVA WAIDYA,

Translator.

—
(Translation of Copy of an Extract in Marathi.)

(SEAL.)

Extract, being a sunud on account of the *Khoti* of the village of Mouza Shiravli Turf Khed Talooka Sooverndoorg entered under (the heading of) Dufate* Patra subordinate to Botkhat† of the Roz Kurd (daily proceedings) of His Excellency Rajeshri . . . Pant Pradhan [held] before, Janardhan Apaji at Poona from the lunar date the 1st of the month of Moharam to the lunar date the 5th of Rabiool Akhir Akhir Sal Soorsah Khamas Sabain Maya wa Alafa (1175 4th March to 6th June 1775).‡

Ved Moorti Narayan bhat Thatai, Joshi and Oopadhya of Mouza Shiravli Turf Khed Talooka Sooverndoorg, having come over to the Hoojoor, and represented that from before there had been no

* A general memo. book containing notes of occurrences and a register of letters, &c.

† A string of several accounts.

‡ A. D. 1774-75.

wattandar khote for the aforesaid village and, (requested that) on receiving from him a *najar* (or present) according to his means, the *wattani khoti* of the aforesaid village should be given to him on terms being settled. Thereupon this sunud is sent to you. Should there be no *wattandar khote* for the aforesaid village, you will on enquiries being made, and on receiving the *najar* (or present) into the Sirkar, be pleased to give the *khote* of the aforesaid village as *wattan* to the Ved Moorti. For this purpose (this) one sunud is sent over to Moro Bapooji, Talooka Sooverndoorg, the lunar date the 17th of Rabioul Aval (1175—18th May 1775).

Rasangi* Yade

Shrir

Hoor (entered)

Translated by me,

HARISCHANDRA SHAMRAO,

Translator.

15th March 1869.

(Translation of Copy of an Extract in Marathi.)

Extract, being sunuds on account of the village of Sooshairi Turf Khed Prant Dabhol Talooka Sooverndoorg, entered under (the heading of) Dufate† Patra subordinate to Botkhat‡ of the Roj Kird (daily proceedings) of His Excellency Rajeshri Pant Pradhian, held before Janardhan Apaji at Poona, the lunar date the 29th of Jelhej Soorsan Sit Sabain Maya wa Alaf (1176—20th February 1776).

Vinayak Mahadev and Appaji Mahadev, surnamed Sathais Wasishta Gotra (lineage) Hirankeshi Sutra (line) Taeetiriya Shakha (branch), *khotes* of Mouza Sooshairi Turf Khed Prant Dabhol Talooka Sooverndoorg, having come over to the Hoojoor at the fort of Poorundhur, represented that on the administration of the aforesaid

* Memo issued by a duly accredited agent.

† A general memo. book containing notes of occurrences and a register of letters, &c.

‡ A string of several accounts.

Prant having passed to the Sirkar, they got the *khoti kamawishi** of the aforesaid village given to them from the Soobha thither they came and settled; that thereupon, in the hope of improving the grounds swallowed in the jungles and by the sea, they obtained from the Soobha an assurance deed for increasing annually the tax upon such grounds, and laid out seven (or) eight thousand rupees towards (their) improvement, and having improved the grounds, they brought them into a flourishing condition; that, in consequence of the tenants of the village having become helpless from penury, and having deserted (the village, or) died, they themselves went on paying the Government assessment due by them, which brought them into great expense, therefore they went to Rajeshri Moro Bapooji, Mamlutdar of the Talooka aforesaid, and requested that, as there was no *wattandar khote* for the village, and that as there was a deal of expense incurred on account of their village, the *khoti* (thereof) should be made into a *wattan* and granted to them; that thereupon the *wattandar* ryots of the Soobha villages having been called and brought, enquiries were made, when the ryots stated that there had been a Dantya Mahomedan *wattandar khote* whose family became extinct, and that there was no *wattandar khote*. That therefore, having regard for the prosperity of the village, a *najar* (or present) of rupees five hundred having been received into the Soobha, terms were settled, the *wattani khoti* was granted, and letters written out and furnished in the year Arba Sabain (1174†), and also letters were written out and furnished by the Jamidars themselves of the Talooka aforesaid; that the *khoti wattan* accordingly continued with them, and they requested that we would be pleased to settle terms and grants from the Sirkar the *khoti wattan* of the aforesaid village, and to furnish *wattan patras* for enjoyment. Thereupon, taking into consideration the facts that the *khoti kamawisi* of the aforesaid village was given to them from the Soobha, that therefore they brought the village into a flourishing condition which put them to much expense, that they had been collecting in Government assessment, that (the family of) the former *wattandar khote* became extinct, and that therefore Rajeshri Moro Bapooji of the Soobha having

* The business of collecting the revenues.

† A. D: 1773-74.

received from them rupees five hundred, granted the *khoti wattan* to them, and furnished letters which they have brought and shewed to the Hoojoor, and, looking into them, we have been pleased to settle terms and grant to them from the Sirkar the *khoti wattan* according to the Soobha letters. Do you therefore continue to them and (their) sons, grandsons, and so on, from generation to generation, the *khoti wattan* of the aforesaid village and *manpan* (titles and privilèges) and *hak lawajums* (rights and retainers) and *kanoon layades* (rules and regulations) appertaining to the said *wattan* according to the practice which may have been prevailing in each of the villages of the aforesaid Talooka.

Sunuds.

- 1 In the name.
- 1 To the ryots of the aforesaid village:
Letters from the Chitnis (or correspondence).
- 1 To the present and future authorities of the country
and writers of Soobha Dabhol Talooka Soovern-
doorg.
- 1 To the Deshmookhs and Deshpandehs Turf Khed of
the aforesaid Talooka.

4

Shreer

Rasangi* Yado.

The lunar date the 7th of Sawal (1176—1st December 1775.)

Hoor (entered.)

Translated by me,

BAL BHASKER SHINTRE,

Translator.

15th March 1869.

(Translation of Copp of an Extract in Marathi.)

Extract, being a sunud about the giving of the village of Mouza Walag Mahad Talooka Raaghar on *khoti* entered under (the heading

* A memo. issued by a duly accredited agent.

of Dafate* Patra subordinate to Botkhat† of the Roz Kird (daily proceedings) of His Excellency Rajeshri . . . Pant Pradhan (held) before Rajeshri Janardhan Appaji at Poona, the lunar date the 29th of Jelhej Soorsan sit Sabain Maya wa Alaf (1176‡—20th February 1776).

(Seal.)

To Naro Gangadhar Pa'anday, the village of Mouza Walag Turf Mahad Talooka Raeghar having been given on *khoti*, this sunud is sent over. Do you therefore give the aforesaid village on *khoti* to the abovenamed (undermentioned) individual, and have the collection in respect of the village realized according to the practice (or usage) of the country. Should their be§ a *wattandar khote*, the aforesaid village is to be given to him. The village for which there may be no *wattandar khote*, is to be assigned to him (this individual). For this purpose (this) one sunud (was granted) in the name of Gunptrao Krishna, the lunar date the 22nd of Jelhej (13th February 1766.)

Rasangijl Yad.

Shrir.

Hoor (entered).

Translated by me,

HARISCHANDRA SHAMRAO,

Translator.

15th March 1869.

(Translation of Copy of Sanud in Marathi.)

. Extract, being a sanud entered in the Roz Kird (daily proceedings) of His Excellency Rajeshri Pant Pradhan (on) the lunar date the 30th of Sawal Soorsun Saman Sabain Maya wa Alaf at Poona

* A general memo. book containing notes of occurrences and a register of Letters, &c.

† A string of several accounts.

‡ A. D. 1775-76.

§ [Not?]

|| Memo. issued by a duly accredited agent.

held before Janardhan Appaji under the heading of Dufate* Patra subordinate to "Botkhot,"† in respect of the *khote* of the village of Venosi Turf Panchanadi.

Ved‡ Moorti Rajeshri Dhond Joshi Panchanadikar having represented that, in consequence of the absence from the village of the *khote* of Mouza Venosi Turf Panchnadi Talooka Sooverndoorg, the *khote* had been given to him by the Soobha (authority) for management for ten (or) twelve years and that it should be so caused to be given (him) by the Sirkar ; the *khote* has accordingly been caused to be given to the Ved Moorti for management, and therefore the duties appertaining to the *khote* of the village may be taken from him, and the Dewan Dust (Government assessment) recovered from him according to the Moolook§ Shirasta. The *khote* of the *wattandar khote* will be caused to be returned to him when he presents himself. To the address of Moro Bapooji, the lunar date 18th of Shawal. This has emanated from the duly accredited agent.

Shreer Hoor (*i. e.*, entered)

Translated by me,

GANESII KESHAVA WAIDYA,

Translator.

* A general memo. book containing notes of occurrences and a register of letters.

† A string of several *khotes* or distinct accounts.

‡ Image or personification of the Vedas.

§ Usage or practice of the district.

In the District Court of the Konkun at Tanna.

Appeal No. 89 of 1865.

KRISHNAJI GANESH, TRIMBUCK SAKARAM, and GOVIND SAKARAM DÂTYE, of Roha in the Rajpoores Talooka of the Colaba Sub-Collectorate in the Konkun District (original plaintiffs) } Appellants.

versus.

Major FRANCIS, Superintendent, Revenue Survey; the Sub-Collectorate of Colaba; DAMODHUR WISEWNAATH GAHANDAR, Khote Nive Purgunnah Ghosali, in the Rajpoores Talooka of the Colaba Sub-Collectorate in the Konkun District; and the COLLECTOR OF TANNA (original defendants) } Respondent.

Rupees 201-8-0.

For appellants, Ramchandra Trimbuick Acharya and Govindi Baba Goorjar.

For respondent No 3, Narayen Bhasker Godbolai.

For respondents Nos 1, 2, and 4, Narayen Balkrishna Chitle.

This is an appeal from a decree by the Court of the Assistant Judge of the Konkun District at Tannah, C. B. Izon, whose judgment is in English.

The plaintiffs appeal on the grounds that—

(1) The Assistant Judge has held it established that the *khote* gave plaintiff the land in dispute as *dhara*, but that he was incompetent to do this; but this is wrong as there is evidence in the case that the *khote* can give a *dhara*, and by giving a *dhara* the *khote* did not injure the rights of Government to whom plaintiffs are willing to pay the regular assessments.

(2) As plaintiffs have held the land as *dhara* for 45 years, cannot now be made liable for *khote* profits.

(3) The defendants were not competent to claim *khote* profits, nor were such claimed from plaintiffs the first year after the Survey Settlement. The issues for decision are:—

1 Did the *khote* confer on the plaintiffs' family a *dhara* esta'e?

2 If so, can the mortgagee of the *khote*, the third defendant, impugn the grant ?

3 If the first issue be found in the affirmative and the second in the negative, then is either, and which, of the defendants liable for damages, and to what amount ?

My finding on the first issue is in the affirmative and for plaintiffs. I am of opinion that this issue is found by the Exhibits Nos. 15, 16, 17, and 32, and witnesses Nos. 37, 64, and 68, and by the long enjoyment of the plaintiffs as *dharekaries*. The grant was indeed not denied in the Court below ; it was only the legality of the grant that was disputed.

(2) My finding on the second issue is in the negative and for plaintiffs. I am of opinion, that the mortgagee of the *khote* cannot question plaintiffs' title to hold the *dhara* any more than the *khote* can do so. There being no clause of limitation or reversion in the grant of the *dhara*, I am of opinion that the *dhara* will endure at least as long as the *khote* lasts. It appears to me that the question discussed in the Court below, *viz.*, whether the *khote* can create a *dhara* estate as against the Government, does not arise in this suit so long as the *khote* continues. It is necessary to determine whether the *dhara* created by the *khote* is held on a valid tenure as against the Government or not. If the *khote* were to lapse, or by any process were to be destroyed, it would then be necessary to determine (if Government questioned the plaintiffs' title) whether the plaintiffs' title as *dharekaries* was a good one or not. But the third defendant, the mortgagee of the *khote*, cannot question plaintiffs' title for he (the mortgagee) takes only what was left to the *khote* to mortgage, that is a *khote* village in which a *dhara* estate had been already created by the *khote*. Under this view of the case, it was perhaps unnecessary to make the first and second defendants, defendants at all. The first, the Superintendent of Survey, merely denied the validity of plaintiffs' title, but this could do the plaintiffs no actual harm. The second defendant, so far as the acts imputed to him in this case are concerned, was acting, not as the possible reversioner of *khote*, but as the authority appointed by law to assist the *khote* (in this case a mortgagee in possession) in realizing for a sub holder or cultivator the assessment due.

(3.) My finding on the third issue is that the third defendant, Damodnar Wishwanath, the mortgagee *khote*, is liable for Rs. 175-4. If the agreements stated above are sound, it follows that plaintiffs are not liable for this sum. Their pleader abandons the item of Rs. 24-4 in the plaint, on account of the difference between the market price of crops that were sold and the price which they actually fetched. From the third defendant's application No. 47, it is clear that it was he who set the second defendant in motion and caused plaintiffs' crops to be attached and sold.

Ordered.

Reverse Assistant Judge's decree ; award to plaintiffs Rs. 175-4 against third defendant, with costs.

The first, second, and fourth defendants to bear their own costs, because it was their conduct which encouraged the third defendant to raise the defence he has raised.

(Sd.) R. H. PINHEY,
Judge,

18th December 1866.

*Copy of the High Court's Judgment passed in Special Appeal
No. 92 of 1867, under date the 13th day of August 1867.*

In this suit the District Judge has very properly decided that a mortgagee *khote* is bound by the act of his mortgagor prior to the mortgage, and that he could not, when in possession, as the representative of the mortgagor, raise the rental of a tenant to whom the mortgagor had leased the lands prior to the mortgage at a permanently fixed rental. It may be true a *khote* could give no lease which would endure after his own estate had ceased ; but this question will not arise in the present suit if the *khote's* estates were in existence when the increased rent was levied from the plaintiffs, as would *primâ facie* appear to be the case.

It has, however, been brought to our notice that the additional revenue exacted from the plaintiffs by the Revenue Officers who are defendants in this suit, at the application of the mortgagee *khote*, was never paid to that individual, as it is alleged that the village was attached by Government and was made *khalsa* in the course of

the year 1863.64, as shown by Exhibits Nos. 31 and 32. We have held that it is competent for one defendant in a suit to make an appeal, regular or special, against a co-defendant, as well as a plaintiff if he considers that the decision of the Lower Court, so far as it charges him exclusively and exempts his co-defendants, is injurious to him, and provided that, in the case of a special appeal, the alleged injury has been occasioned by an error in law or procedure which affects the merits. In the present case, therefore, to ascertain which of the defendants is justly liable to the plaintiff, it is necessary that we should know the precise time when the village was attached, whether the attachment was permanent or temporary, and whether it put an end to the *khote's* estate ; and, further, whether the revenue for that year, which was exacted from plaintiff in excess by the Government assessment, was appropriated by Government or made over to the mortgagee *khote*. In elucidation of this subject, the dates on which the attachment of the crop was made, and when the sale took place, must be clearly ascertained and determined. As these questions of facts have not formed the subject of enquiry in the Court below, we refer the suit to the Lower Appellate Court, that investigation may be made and findings recorded on these several points, upon the receipt of which findings we shall be prepared to pronounce a final judgment.

The District Judge should determine these points himself, and not delegate the enquiry to the Court of first instance.

(True Copy.)

(Sd.) K. C. BEDARKAR,

Deputy Registrar.

(15.) From the eastern part arose the Gautama-Tirtha. On the western part also [appeared] the fair Kolesvari. (16.) Sangamesvara stood at the junction of Varuna and Alakananda. [He also saw] other holy places like the Dhutapapa [or remover of sin]. (17.) On the north Naganatha, and Siva under the name of Nibandhesa, then on the east Kedara, facing the south. (18.) In the middle of the river, the sacred hot spring giving comfort to all beings; thence on the western side, also Tilabhandesvara. (19.) In that Sangamesvara [there] was the well known, celebrated Parvati; so [was] the superior god Ganesa, the giver of the eight preternatural faculties, intelligence, and desires. (20.) From thence, on the western side, there was Gomukhesvaraka, then Svarnavati Ganga, where there were three great goddess Durga. (21.) Thus, the king Karna saw a holy place in his dream. Then the king awoke and comprehended at the same moment the meaning of everything. (22.) He then resolved on making it his happy capital, and in the morning invited an astrologer of the Sandilya family, who was an inhabitant of Sri Sangamesvara Kshetra, who was an austere and pious man, versed in the science of astronomy, and named Nrisinha. (23 and 24.) Having duly honoured him with fruits and jewels, the King joyously asked him the propitious time. When the propitious time with propitious conjunction of stars and the support of the planets was mentioned by the astrologer, King Karna, having duly worshipped Kurma, Sesa, Varaha, &c., established his capital there. (25, 26.) Nagapura was founded by Naga and Singhana by Singha. Then, abandoning Karavira, they lived here many years. (27.) Karna made Sangamesvara altogether like the Kshetra (*i. e.* Karavira), and founded the principal *linga* after his own name. (28.) Having spent a crore of gold pieces, that great-minded king built 360 temples there. (29.) I will briefly mention the names of some of them. On the east, Bramhesa, graced by five (surrounding) gods; (30.) the great god Karnesa, surrounded by ten other gods, and who is celebrated in Sangama kshetra, and is the giver of the means of subsistence and salvation. (31.) On the river-side, Girijesa (or the lord of Girija), and thereafter Kumbhesvara; the great goddess Ekavira accompanied by 64 *ganas*. (32.) Ravanaesa, near the Ganga, who is Sankara himself. It was a *linga* founded by Ravana, which Karna repaired. (33.) There also was Varana-Tirtha, the destroyer of all sin, by bathing in and drinking of which, a mortal