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1903.

GOVERNMENT OF INDIA.

FOREIGN DEPARTMENT.

EXTERNAL—A.

Proceedings, February 1903, Nos. 3–4.

Transfer of revenue-free holdings among certain Saiyids of Pishin.

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FOREIGN DEPARTMENT NOTES.

EXTERNAL—A, FEBRUARY 1903.

Nos. 3—4.

TRANSFER OF REVENUE-FREE HOLDINGS AMONG CERTAIN SAIYIDS OF PISHIN.

FROM THE AGENT TO THE GOVERNOR-GENERAL IN BALUCHISTAN, No. 7881, DATED THE 14TH (RECEIVED 19TH) NOVEMBER 1902. Pro No. 3

Forwards copy of a letter from the Revenue Commissioner, Baluchistan, giving reasons for his opinion that certain modifications are necessary in Foreign Department letter cited, on the subject of the transfer of revenue-free holdings among Sayads.

The orders,* which the Agent to the Governor-General wishes the Government of India to modify, issued on the advice of the Revenue and Agricultural Department. The case may be sent, in the first instance, to that Department for favour of remarks.

* External A, August 1902, Nos. 89-90.

E. H. S. CLARKE,—24-11-1902.

Revenue and Agricultural Department.

Before expressing an opinion, Foreign Department may be asked to let us see the notes on the general subject of land transfers in Baluchistan, referred to in paragraph 2 of Under-Secretary's note of 29th July 1902, in Foreign Department A Proceedings (External), August 1902, Nos. 89-90.

R. E. V. ARBUTHNOT,—28-11-1902.

Foreign Department.

A copy of the notes is put up below.

E. H. S. CLARKE,—10-12-1902.

Revenue and Agricultural Department.

Paragraph 3 of Foreign Department letter No. 1660-E.A, dated the 15th August 1902, is based on this Department's notes ending with Hon'ble Member's note of 30th July 1902. Hon'ble Member's views on the general subject of land transfer in Baluchistan will be found in page 4 of the notes regarding the Land Revenue Regulation for British Baluchistan.

Foreign Department A Proceedings, August 1902, Nos. 89-90 (External).

2. Major McMahon, Revenue Commissioner, Baluchistan, asks for a reconsideration of the Government of India's orders regarding transfers of revenue-free holdings amongst Sayads. He represents that it is most necessary to prevent indiscriminate alienations of muafis amongst Sayads who may belong to different communities, and suggests that transfers should be subjected to the conditions stated in paragraph 7 of his letter No. 2829, dated the 18th October 1902. The Agent concurs in Major McMahon's opinion.

3. Under the circumstances explained, this Department may support the Agent's proposal.

R. E. V. ARBUTHNOT,—16-12-1902.

The Department was placed in a difficult position in advising on the question referred to it in July, as no information was given it that such matters had already been decided by the Revenue Commissioner or the Agent, and a definite practice established. It now appears that in 1900 it was ruled locally that Sayads might alienate to another of the same branch, but not otherwise without sanction.

2. In 1901 the Revenue Commissioner went further and held that except where the Government of India had especially conferred the right to alienate, all *muafis* were to be considered as inalienable. Colonel Yate expressed an opinion in favour of this latter order in May

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last (paragraph 7 of his letter), but as his views were not accepted, he now proposes a somewhat stricter reading of the local orders of 1900. Alienation he would allow only to members of the section or sub-section named in the muafi order, who are themselves (or their fathers) sharers in the muafi.

3. The proposal seems a fair one from the point of view of public policy : and if, as I understand, we have a free hand in dealing with the transfers of these *muafis*, I think we may accept it. The rule would not, of course, apply to cases in which special orders regarding right to alienation have been issued.

J. O. MILLER,—14-12-1902.

I agree that there is no objection to the proposed restrictions, if advisable on political grounds.

DENZIL I[BBETSON],—19-12-1902.

J. O. MILLER,—19-12-1902.

Initialled on draft.

Foreign Department.

E.H.S-C. 16.1.03
H.D.
J.W.D.

Pro. No. 4. TO THE AGENT TO THE GOVERNOR-GENERAL IN BALUCHISTAN, NO. 73-E., DATED THE 17TH JANUARY 1903.

Accepts the proposals of the Revenue Commissioner.

ENDORSEMENT TO THE REVENUE AND AGRICULTURAL DEPARTMENT, NO. 74-E., DATED THE 17TH JANUARY 1903.

Forwards a copy of the correspondence for information

G. I. C. P. O.—No. 1445 F. D.—10-1-1903.—26.—J. N. S.

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TRANSFER OF REVENUE-FREE HOLDINGS AMONG CERTAIN SAIYIDS OF PISHIN.

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No. 7881, dated Quetta, the 14th November 1902. Pro No 3

From—The Hon'ble Colonel C. E. Yate, C.S.I., C.M.G., Agent to the Governor-General in Baluchistan,

To—The Secretary to the Government of India in the Foreign Department.

With reference to the correspondence ending with your No. 1664-E.A., dated the 15th August 1902, I have the honour to forward copy of a letter No. 2829, dated the 18th October 1902, from the Revenue Commissioner in Baluchistan, giving reasons for his opinion that certain modifications are necessary in paragraph 3 of your letter above referred to.

2. I am in accord with Major McMahon that it is most necessary to prevent indiscriminate alienations of muafis among Sayads who may belong to different "communities" or "sections", and as further pointed out by him, the possibility of Sayads from other parts of the province, or even India, stepping into valuable and perpetual muafis.

In paragraph 7 of my letter No. 4620, dated the 27th May 1902, I went rather further than this, but as the Government of India is averse to prohibiting all alienations of muafis among Sayads, I think that there can be no objection to limiting them simply in accordance with the practice which has been in force up to the present time. If, therefore, it is agreed that alienations may be permitted among Sayads of the same branch, but not otherwise, I think that it would be advisable to define what "branch," "community," etc., mean in such cases as suggested in paragraph 7 of Major McMahon's letter.

Encls, Pro No 3.

No. 2829, dated Quetta, the 18th October 1902.

From—Major A. H. McMahon, C.S.I., C.I.E., Revenue Commissioner in Baluchistan,

To—The Hon'ble Colonel C. E. Yate, C.S.I., C.M.G., Agent to the Governor-General and Chief Commissioner in Baluchistan, Quetta.

I have the honour to acknowledge the receipt of your endorsement No. 1608-Z., dated 10th September 1902, forwarding copies of your letter No. ~~4019,~~ 4620 dated 27th May 1902, to the Government of India, Foreign Department, and of Foreign Department letter No. 1664-E.A., dated 15th August 1902, to your address.

2. In paragraph 7 of your letter No. ~~4619,~~ 20 you said that you are of opinion that "transfers of revenue-free holdings should not be permitted among Sayads who hold their muafis in perpetuity," and you proposed, with the permission of the Government of India, to make this known. I feel it necessary to point out that the matter is one which had already been definitely settled by the Government of India, and that for that reason and from the precedents of previous practice in such cases, we were hardly in a position to propose such a wholesale departure from established and recognized custom. The order now in force is that in Revenue Commissioner's Order No. 2222, dated 29th June 1901, *i.e.*,

"Paragraph 3 * * *

* * * * *

(i) Except in certain cases, where for special reasons, such as in the case of certain Shahwanis in the Quetta Tahsil of certain Sayads in the Pishin Tahsil and of certain Pechi Sayads of Pui in the Sinjawi Tahsil, the Government of India have approved of the alienation of muafis to members of the same community, all muafis * are to be considered as unalienable. Any muafi, which is not protected by some special order to that effect, must, on alienation by mortgage, sale, exchange, or otherwise, be thereby considered forfeited."

* This applies to shares in a joint muafi.

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The principle regulating alienations is further defined in Revenue Commissioner's letter No. 2463, dated 13th August 1900, which received the approval of the Hon'ble the Agent to the Governor-General in his letter No. 1174-C., dated 20th August 1900, *i.e.*,

"The principle, which it seems reasonable to follow in such cases, is that Government will not interfere with alienations by one Sayad to another Sayad of the same branch, but that alienation from a member of one branch, *i.e.*, a Hijabzai, to a member of another branch, *i.e.*, a Shinghari, will not carry revenue-free title without the special sanction of Government."

3. The reply of the Government of India to paragraph 7 of your letter (*vide* paragraph 3 of letter No. 1664-E.A., dated 15th August 1902) has, I regret to say, left the question in a very unsatisfactory state, and it is now necessary to refer it for reconsideration. I venture to think that paragraph 3 of above letter is based on a misunderstanding of the facts of the case.

If is hardly correct to say that "the relinquishment of revenue" in the case of Sayads "is based on the religious status of the holder." A reference to the grounds on which muafis have been granted to the numerous Sayad communities in Quetta-Peshin and other districts will show that each muafi was granted to some definite branch of Sayads, sometimes to a main section, sometimes to a sub-section of a main section of Sayads, but always to them as such in their sectional or sub-sectional name and always for some definite reason which related to that section or sub-section only. In some cases the original muafi had been given to them by an Afghan ruler, in other cases by some particular local tribe among whom such specified Sayad community had taken up their residence. In some cases the muafi related to lands granted as a gift to those particular Sayads by a ruler or by a tribe, but in many cases to lands purchased by those Sayads.

4. The following are a few of the various Sayad communities in possession of muafis :—

1. Chishti	Sayads	12. Shinghari	Sayads.
2. Haiderzai	,,	13. Gangalzai	,,
3. Mandan	,,	14. Shadezai	,,
4. Manozai	,,	15. Sulemanzai	,,
5. Ismailzai	,,	16. Adamzai	,,
6. Ibrahimzai	,,	17. Taimurzai	,,
7. Husainzai	,,	18. Civilzai	,,
8. Huramzai	,,	19. Mhandzai	,,
9. Hijabzai	,,	20. Mastarzai	,,
10. Hajezai	,,	21. Karal	,,
11. Kakazai	,,	22. Taran	,,

23. Pechi Sayads of Pui.

Muafis relating to the above are granted to each specifically by name, whether main sections or only sub-sections. For instance, Nos. 5 to 13 are sub-sections of No. 4, and Nos. 15 to 19 are sub-sections of No. 14, while the Karals and Tarans, Nos. 21 and 22, have very doubtful claims to be Sayads at all.

5. It stands to reason, therefore, that when such muafis have been given to certain particular communities, residing in stated localities, for specified reasons varying in each case, only members of those particular communities of those particular localities are entitled to enjoy those muafis. The mere religious status of Sayad does not confer such right. If this were so, any of the innumerable Sayads of Baluchistan or even Sayads of India and elsewhere would, as might be understood from paragraph 3 of Government of India letter, have a right, by mere purchase or mortgage of land, to step into a valuable and perpetual muafi. This is obviously an absurdity, and I cannot think that such can be the intention of Government.

6. The question is one which affects a large area of land in the Quetta-Peshin District and a very large amount of revenue. I trust, therefore, that it will be referred to Government for reconsideration.

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7. The use of the words, Sayad "community," "branch," "section," "sub-section," etc., is apt, without further limitation, to lead to misunderstanding, and a clearer definition of persons entitled to enjoy a perpetual Sayad muafi on transfer to them of muafi lands, is required. I consider that such persons should fulfil the following conditions, *i.e.*,—

(1) Be members of the particular section or sub-section named in the original order granting the muafi.

(2) Be themselves or their fathers hereditary co-sharers in the undivided (Shamilat) property, should such exist, of such section or sub-section, situated in the place named in the muafi grant.

(3) Be themselves or their fathers in enjoyment of muafi on other lands included in the muafi grant to such section or sub-section.

8. I consider that this definition would cover the case of all entitled to enjoy Sayad muafis and would in no wise unduly restrict the right of the communities concerned to transfer their muafi rights to members of their own particular communities.

9. If you approve, the Government of India might be asked to substitute the above definition for the last half of paragraph 3 of their letter No. 1664, dated 15th August 1902.

G. I. C. P. C.—No. 1445 F. D.—10-1-1903—41—J. N. S.

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PROCEEDINGS OF THE

FOREIGN DEPARTMENT, FEBRUARY 1903.

Transfer of revenue-free holdings among certain Saiyids of Pishin. Pro. No. 4

No. 73-E., dated Fort William, the 17th January 1903. **Pro. No. 4.**

From—The Deputy Secretary to the Government of India in the Foreign Department,

To—The Hon'ble Colonel C. E. Yate, C.S.I., C.M.G., Agent to the Governor-General in Baluchistan.

I am directed to acknowledge the receipt of your letter No. 7881, dated the 14th November 1902, relating to the transfer of revenue-free holdings amongst Saiyids.

2. In view of the information now furnished by Major McMahon the Government of India accept the proposals contained in paragraph 7 of his letter,* and transfers of muafis as between Saiyids may be restricted to the limitations therein specified.

* No. 2829, dated the 18th October 1902.

3. I am to add that this ruling will not apply to those cases in which special orders as to right of alienation have already been issued.

No. 74-E.

A copy of the foregoing letter, together with a copy of the letter to which it is a reply, is forwarded to the Revenue and Agricultural Department for information, in continuation of the endorsement from the Foreign Department, No. 1986-E., dated the 26th September 1902.

E—3-4—Feb.—1757 F. D Exd—W. G. B.

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