

EAST AFR. PROT.
25298

25298
JUN 15 1915

Writing  
for Govr

546

1915  
29th April

MR A. C. HARRIES  
PURCHASE OF FARM 1473

Last previous Paper.

The memorial from Mr Harries and states facts of case. The case is a hard one though not prepared to recommend exchange for which he asks will offer no objection if it is approved as an act of grace.

Ans? 439. 15 June 1915

To: ~~Mr. Harries~~  
Mr. G. Fiddler

This is distinctly bad luck, as Mr. Harries must have been active in developing the land (transfer of occupation licenses were not permitted till August 1913), but it seems somewhat odd to me the fact that he might have checked the form by the authorities before but failed to do so.

The only chance for favourable comment, so far as I can see, would be if it could be shown that he bought the oil of date plan from the Land Office & that it bore no indication of being provisional or unfulfilled. But even so I think he ought to abide by his own (or his own)

Last subsequent Paper

treatment based on the actual or alleged  
mistakes of the Govt. and if we entertain  
appeals ad misericordiam we shall get  
into deep water.

? Re: I say that Mr. Harris should be  
told that his memorial has been received  
but that the S. Off. while regretting the  
difficult situation in which he has to place  
himself, that he would not be justified  
in granting his request for an exchange  
of land [— the value of which comes of course  
whether through a "good value" or otherwise it  
would be largely arable]

Col. S.  
2/6/15

It is a very hard case & in view of  
what the Govt. says is the best form for  
himself, I sh<sup>d</sup>. be inclined to  
agree to the proposed exchange. The  
man is a bona fide settler who has  
undoubtedly done a good deal of develop.  
as we have not suffered from a  
superfluity of that class of individual  
men. With regard to the <sup>merit</sup> ~~question~~ of  
the precedent, we have had sufficient  
appeals of this kind & I do not see why  
they sh<sup>d</sup>. not be decided on their  
merits — it being of course understood  
that any relief which may be given is  
given purely as an act of grace.

H. S. S.  
3/6/15

I agree that Mr. Harman has no  
 legal remedy against the Govt. on the  
 ground of mistake or otherwise as he  
 (or his son) failed to exhibit the due  
 diligence in occupying the Government  
 land which might have given  
 him a claim to relief.

It is however, a hard case and if  
 another farm can be selected which  
 both Mr. Harman & the Govt. could agree  
 to in a fair exchange for farm  
 1473 (which was, in a matter  
 of some difficulty) I think such  
 an exchange should be sanctioned.

211  
 5/6/15

Sagun - with some misgiving  
 about the precedent.

at once

U. D. B. 15

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AFRICA PROTECTORATE.

No. 346.

25298  
GOVERNMENT HOUSE, 1 JUN 15  
NAIROBI,  
BRITISH EAST AFRICA.

April 23th, 1915.

Sir,

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I have the honour to transmit herewith a memorial from Mr. A. C. Harries.

2. The facts of the case are as follows:-

Mr. Harries bought from a Mr. Gwynne Evans a farm 1473 for which he paid the sum of £1900/-. He sent one of his sons up to develop, and instead of obtaining a copy of the plan attached to Mr. Evans' licence and verifying the beacons on the ground, he bought and took up an old provisional survey plan, in which the road which was ultimately to form the Eastern boundary of the farm was only sketched in.

3. The plan attached to the Licence and by which of course the farm is governed, shows the road as finally surveyed, and is identical with the plan to be attached to his final lease.

RIGHT HONOURABLE

SIR HARCOURT, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

Mr.

Mr. Harries Junior mistook a road beacon, for his farm corner beacon, and developed land which now turns out to be on 1472 spending some £373 on development.

4. He has tried to get the owner of farm 1472 to sell this developed land, but without success. He now finds himself after all this expenditure and labour left with an undeveloped farm only suitable for grazing, the only arable land being included in Farm No. 1472.

5. Mr. Harries realizes that he has really no redress and I have pointed out to him that the difficulty in which he now finds himself is due to his own default in not insisting on the vendor pointing out the boundaries before he completed the purchase. I also explained to him that I could do nothing for him and that if he desired to carry the matter further his only course was to address you.

6. The case is admittedly a hard one and, though I am not prepared to recommend the exchange, for which the petitioner asks, I shall offer no objection if you see fit to approve it as an act of grace.

I have the honour to be,

Sir,

Your humble, obedient servant,

*[Signature]*  
on instructions from the  
GOVERNOR

25298

TO/ The Right Honourable

The SECRETARY of STATE for the COLONIES.

The MEMORIAL of the undersigned ALLEN CHARLES HARRIES of Ndarugu, in the East Africa Protectorate, SHOWETH as follows:--

1. The Memorialist is the Owner of Farm Number 1473, Muhoroni, in the East Africa Protectorate which was purchased by him from the original Licensee, G. Evans.
2. At the time of the said purchase an examination was made by the Memorialist of the said farm and of the beacons and boundaries thereof.
3. Owing to a road beacon on the said farm being made of cement, with an upright iron rod showing in the centre, contrary to the usual custom in this country, and to the fact that no made road was at that time in existence there the Memorialist, although provided with a map of the said farm issued by the Land Department and taking every precaution to ascertain correctly the boundaries of the said farm, mistook the said beacon for one of the corner beacons of the said farm.
4. The Memorialist, erroneously believing that this cement beacon marked one of the boundaries of the said farm, purchased the said property from the said G. Evans supposing that a large strip of fertile soil, containing about seven hundred acres of arable land, which was adjacent to the said cement beacon was comprised in the said farm, the rough and uninhabited nature of that part of the country making such a mistake easy even to one acquainted with the country.

5. The Memorialist, having purchased the said farms, commenced to develop the said fertile strip of arable land and to put all his improvements thereon, as required by the Government for the acquisition of a Ninety-nine years lease. The said improvements were valued at a high figure by the Land Department and the farm has cost the Memorialist £1900 in improvements &c...

6. The Memorialist has since discovered that he was wrong in supposing that the said cement beacon formed one of the boundary marks of the said farms, and consequently he has been occupying and developing portion of the adjoining farm which did not belong to the said G. Evans and from which the Memorialist has now been evicted.

7. The said farm Number 1473, without the said fertile strip of Seven hundred acres of arable land, is totally unfitted for agricultural purposes and therefore useless to the Memorialist who is a coffee planter.

8. The Memorialist has lately had an interview with His Excellency the Governor of the said Protectorate with a view to getting his permission to exchange the said farm Number 1473 for another unallotted Government farm of equal value ~~in the Landiani allotment~~, of which the said farm formed part. At each interview His Excellency advised the Memorialist to place his case before you.

9. The Memorialist is a man well advanced in years. He has settled in this country some eleven years and has made it his home. He has four sons, three of whom are not possessed of any landed property in this country. The Memorialist and all his sons have volunteered their services in the defence of this country. One of his sons has now lost the use of



his left arm in fighting against the Germans on the border.

The Memorialist PRAYS that he should, under the circumstances, be granted by the Government another farm of equal value to farm Number 1473 aforesaid in exchange therefor, and that His Excellency the Governor be suggested to make a grant to him of a farm in exchange as aforesaid out of Government land at present unallotted and unoccupied in the said Londiani allotment.

Dated this 24<sup>th</sup> day of April 1918.

A. C. Harris



Gov. 25298/1915

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Encl. 50c



15 June 1915

Sir,

I have the honour  
 to ackn. the receipt  
 of your det. No. 10  
 of the 28<sup>th</sup> of April  
 forwarding a Memorial  
 from Mr A.C. Harris  
 praying that he may  
 be allowed to  
 exchange farm No.  
 423 for another  
 farm of equal value

and to inform  
 you that in the

circumstances of the  
 case I have decided, though not now about  
 to see I approve of

DRAFT.

Encl. No. 439  
 In the St. Belfield

MINUTE.

Chapman 10/6/1915

Bottomley 11.6.15

Read 11

G. Fiddes.

H. Fox.

J. Anderson.

Ed. Kenneth. Lexington.

Harcourt.

your complying with

the Memorialists' request

if you are able to

do so the exchange.

2 I must however

be distinctly understood

that this concession is

to be regarded as an act

of grace and as a

special case which must

not be brought into

precedent

THOMAS A. EDGAR BAW.