

Document XII

General Description

Title: No title⁵⁶

Size: 61×34cm

Number of deeds: 4

Date: 1110–1138/1698–1725

A document drawn up on the occasion of the acquisition of land at Bāb al-Ḥalūfa, Tāzrūt, and Wuljat al-‘Azafa in the Inaouène valley by ‘Abd al-Salām b. al-‘Ayyāshī Naghmūsh (XI-a16) from Ḥamm b. Daḥḥ al-Ḥayyānī (XI-h1)⁵⁷ through the offset of his debt in 1125/1713. Along with the deed of acquisition (Deed 2), a deed proving the ex-ownership of Ḥamm b. Daḥḥ (XI-h1) (Deed 1) was prepared by copying.

Afterward, in 1138/1725, when Muḥammad b. al-Tuhāmī al-‘Alamī (XI-g1) purchased the lands, summaries of the purchase deeds (Deed 3 and Deed 4) were added onto Document XII. Probably at this point, Document XII also moved from the hands of Ḥamm b. Daḥḥ (XI-h1) to the new owner Muḥammad al-‘Alamī (XI-g1).

Document XI and Document XIII are also concerned with the same lands as that of Document XII. The same persons and even the same deeds appear in them. It is supposed that all the three documents were eventually preserved in the hands of Muḥammad al-‘Alamī (XI-g1).

Deed 1 (XII-1)

Date: middle of Ramaḍān 1125/October 1713

No. of lines: 64

Notaries: signature XII-S1
signature XII-S2

A deed which establishes the ownership of the land at Bāb al-Ḥalūfa, Tāzrūt, and Wuljat al-‘Azafa by Ḥamm b. Daḥḥ al-Ḥayyānī (XI-h1). It consists of copies of nine deeds from three source documents, and includes at the end a testimony on the collation of the copies with the originals and the acceptance (*qubūl*) and authorization of the copy’s authenticity (*istiqlāl*) by the deputy chief qadi of Fès (XII-Q1).

⁵⁶ There is a phrase “AH. 1137” (*1137 hijrīya*), but it seems written in a modern hand.

⁵⁷ He was without doubt an inhabitant of this region, judging from his *nisba* al-Ḥayyānī which means a member of the Ḥyāyina tribe. He took the lease of a piece of land in this region from ‘Abd al-Salām Naghmūsh (XI-a16), while he guaranteed payment of rent for his kinsmen in 1129/1717 in Document XI (XI-2-9 and XI-2-10). Thus, he seemed to be one of the notables among the inhabitant farmers. He even purchased some parts of land in this region as shown in Deed 1 of Document XII (XII-1). However, he eventually renounced the land purchased in Deed 2 (XII-2), because he could not pay his (or his kinsmen’s) rent and so offset the debt with the land.

All the source documents were concerned with the ownership of Ḥamm b. Daḥḥ al-Ḥayyānī (XI-h1) and probably held by him. The first source document (XII-i) included Naṣṣ 1 and Naṣṣ 2 and was prepared on the occasion of the purchase of land at Bāb al-Ḥalūfa. The second source document (XII-ii), written on paper (*qitʿat kāghīd*), included Naṣṣ 3 to Naṣṣ 6 and was prepared on the occasion of the purchase of land at Tāzrūt. The third source document (XIII-iii) included Naṣṣ 7 to Naṣṣ 9 and was prepared on the occasion of purchase of another portion of land at Tāzrūt and land at Wuljat al-ʿAzafa.

It was copied on Document XII on the occasion of the acquisition of the lands by ʿAbd al-Salām Naghmūsh (XI-a16) in Deed 2 in order to prove the ex-ownership of Ḥamm al-Ḥayyānī (XI-h1)

Naṣṣ 1 (XII-1-1)

Date: beginning of Dhū al-Ḥijja 1120/February 1709

Notaries: ʿUmar b. Mūsā

Muḥammad b. Muḥammad b. Yaḥyā

A deed of purchase of a share of the land at Bāb al-Ḥalūfa by Ḥamm b. Daḥḥ al-Ḥayyānī al-Maskarī (XI-h1) from Muḥammad b. Muḥammad b. Yaḥyā (XI-b4) and his brother al-Mahdī (XI-b3). It seems that there was another purchaser but his name cannot be identified due to damage of the document. The land was an inherited share of the sellers from their father Muḥammad b. Yaḥyā (XI-b1) and was called Bāb al-Ḥalūfa. The price was 60 *ūqīya darāhim qadīma*, of which Muḥammad (XI-b4) received 23 *ūqīya* and al-Mahdī (XI-b3) received 12 and one quarter *ūqīya*. The remaining 25 *ūqīya* (the figures do not add up) was to be paid in *ḥulūl*.⁵⁸

Naṣṣ 2 (XII-1-2)

Date: 11 Dhū al-Qaʿda 1122/1 January 1711

Notaries: Aḥmad b. Aḥmad al-Labbān?

Muḥammad b. Muḥammad b. Yaḥyā

A deed which establishes the payment of the remaining amount for the purchase in Naṣṣ 1. It was drawn up in the right margin of Naṣṣ 1.

It is a summary of a payment deed drawn up on another document by the same notaries as this deed.

After the deed, an apostille on the testimony about the notaries' handwriting of the two deeds due to their deaths and its acceptance was affixed.

Naṣṣ 3 (XII-1-3)

Date: 1 Rajab 1121/6 September 1709

Notaries: Muḥammad b. Abī Madyan al-Bashīr

Muḥammad b. Yaḥyā

A deed which establishes that Ḥamm b. Dūmī al-Maskarī (XI-h1) and Masʿūd b.

⁵⁸ For *ḥulūl*, see p. 47, Note 43.

Yaḥyā al-Walīdī were appointed as agents of the land at Tāzrūt by al-Rādī b. Mūsā al-Maghāghī (XI-i1). It says that the land was in the hands of Abū al-Rawāyil.⁵⁹

It was transcribed on Document II-ii as a related deed of the purchase in Naṣṣ 4.

After the deed two apostilles were affixed. One is on the deposition of testimony by the two notaries, its acceptance, and notification by Muḥammad al-‘Arabī al-Raq‘ī. The other concerns testimony about the handwriting of the qadi, its acceptance, and notification by Muḥammad al-Ṭālib b. ‘Abd al-Wāḥid al-Bū‘inānī.

Naṣṣ 4 (XII-1-4)

Date: 10 Rajab 1121/15 September 1709

Notaries: ‘Alī b. ‘Abd Allāh

Muḥammad b. al-Bashīr b. Abī Madyan

A deed of purchase of a non-irrigated field (*al-arḍ al-ba‘l*) at Tāzrūt by three purchasers, from three sellers. The sellers are Ḥamm (XI-h1) who is mentioned as an agent in Naṣṣ 3, ‘Īsā b. ‘Umar Athbāth? al-Ṣadrātī, and al-‘Arabī b. ‘Abd Allāh.⁶⁰ We do not have any information about how they obtained the land. On the other hand, the purchasers were al-Murābiṭ Muḥammad b. al-‘Aṭṭār al-Dūmī, Daḥḥ b. Ramaḍān, and Qall b. Abī Ḥāmid.⁶¹ The deed describes the location of the land and says that it was in the hands of Abū al-Rawāyil. The price was 300 *ūqīya qadīma*. It also says that al-‘Arabī b. Muḥammad b. Yaḥyā (XI-b5) and ‘Alī al-Mukhtārī agreed to the sale, probably as sharers of the land.

It was drawn up on Document XII-ii below Naṣṣ 3.

After the deed two apostilles were affixed. One is on the second notary’s deposition, testimony about the other notary’s handwriting due to his absence, its acceptance, and notification by Muḥammad al-‘Arabī al-Raq‘ī. For the other, however, we find only a marker for the beginning of an apostille “after that, with the handwriting of the person who is in charge” (*wa-ba‘da-hu bi-khaṭṭ man yajibu*), leaving a blank following. Seemingly, either it was not legible on the occasion of the copying or the qadi did not affix an apostille, which had been expected by the copier notary.

Naṣṣ 5 (XII-1-5)

Date: 12 Rajab 1122/6 September 1710

Notary: Muḥammad (a blank for the rest of the name)

⁵⁹ A certain Muḥammad b. Aḥmad b. Abī al-Rawāyil al-Ḥuṣaynī appears in XI-2-8-2 in 1110/1698 as a tenant of land of the Ḥammāṭī family.

⁶⁰ He might be al-‘Arabī b. ‘Abd Allāh al-Ṣadrātī (XI-f3) who appears in XI-10 as a seller.

⁶¹ Daḥḥ b. Ramaḍān appears as a tenant of the land in the lease contract of XI-2-8-1, while the other two seem to be the farmers mentioned in XI-2-5.

A deed which establishes the qualification of Ḥamm b. Daḥḥ (XI-h1) as a sharer of the purchased land in Naṣṣ 4. The purchasers of the deed in the same side of the document (Naṣṣ 4) had the notaries testify that they shared the land equally with Ḥamm b. Daḥḥ (XI-h1) who was also mentioned in that deed. Although Ḥamm (XI-h1) had appeared as an agent of the seller in Naṣṣ 4 one year before, now he became the sharer by paying the price shown in Naṣṣ 6.

It was drawn up on Document XII-ii in the right margin.

Naṣṣ 6 (XII-1-6)

Date: the same date as Naṣṣ 5 (12 Rajab 1122/6 September 1710)

Notaries: Muḥammad b. Yaḥyā

A deed which establishes the payment by Ḥamm b. Daḥḥ (XI-h1) for his share in the purchased land in Naṣṣ 4. The purchasers of Naṣṣ 4 had the notaries testify that they received from Ḥamm b. Daḥḥ (XI-h1) the price of the purchase in proportion to his share.

It was drawn up on Document XII-ii to the left of Naṣṣ 5 to consolidate the share of Ḥamm b. Daḥḥ.

Naṣṣ 7 (XII-1-7)

Date: middle of Jumādā II 1110/December 1698

Notaries: Idrīs b. ‘Allāl al-Qādirī

Muḥammad b. Muḥammad b. Aḥmad al-Fāsī

A deed of partition of the land at Tāzrūt and Wuljat al-‘Azafa between Muḥammad b. Yaḥyā al-Zagārī (XI-b1) and ‘Abd al-Wāḥid b. al-Ḥasan al-Ḥammāfī (XI-a4). Probably it was drawn up on the occasion of the amicable settlement of the dispute (XI-2-1-4 and XI-1-6) between the two to clarify the borders of each piece of land.

It was transcribed on Document XII-iii on the occasion of the purchase of the land by Ḥamm b. Daḥḥ al-Ḥayyānī (XI-h1) from al-‘Arabī b. ‘Āmir al-Zagārī (XI-b12) in Naṣṣ 9 (XII-1-9) in order to establish the borders of the purchased land which had previously belonged to Muḥammad al-Zagārī (XI-b1).

This kind of partition deed should be held by each of the two parties. We assume that Naṣṣ 7 was transcribed from that of Muḥammad al-Zagārī (XI-b1), because the transcription served to establish the borders of his land. The same text is also found in Deed 1 of Document XIII (XIII-1) and Deed 3 of Document XI (XI-3). While the former was preserved in the hands of Muḥammad al-Zagārī (XI-b1) as well as this Naṣṣ 7, the latter was preserved in the hands of the Ḥammāfī family, the other party of the partition.⁶²

For the detailed content of the deed, see the description of XI-3.

Naṣṣ 8 (XII-1-8)

Date: 22 Rabī‘ I 1124/29 April 1712

⁶² For details of the relation between these deeds, see the Description of Document XIII.

Notaries: ‘Umar b. Mūsā
Aḥmad al-Mizwār

A deed which establishes the ownership of a part of the land of Tāzrūt and Wuljat al-‘Azafa by al-‘Arabī b. ‘Āmir al-Zagārī (XI-b12). It consists of a copy of one deed, and includes at the end a testimony on the collation of the copy with the original and the acceptance (*qubūl*) by the deputy chief qadi of Fès, Muḥammad al-Ṭālib b. ‘Abd al-Wāḥid al-Bū‘inānī. It was copied on Document XII-iii below Naṣṣ 7 on the occasion of the purchase of the land by Ḥamm b. Daḥḥ al-Ḥayyānī (XI-h1) from al-‘Arabī b. ‘Āmir al-Zagārī (XI-b12) in Naṣṣ 9 (XII-1-9) in order to prove his qualification as a seller.

Naṣṣ 8-1 (XII-1-8-1)

Date: beginning of Jumādā I 1119/July–August 1707

Notaries: ‘Umar b. Mūsā
? b. Dāwūd

A deed which establishes the purchase of a half of the land by al-‘Arabī b. ‘Āmir al-Zagārī (XI-b12) from Muḥammad b. Yaḥyā b. Muḥammad b. Aḥmad (al-Zagārī) (XI-b1). It is a testimony by the two notaries who attended the purchase of six years before, though the formula almost corresponds to that of the purchase deed. Instead of describing the location of the land, it simply refers to the deed above (XIII-1; the source of Naṣṣ 8-1 is Document XIII, as shown below) and says that Muḥammad b. Yaḥyā al-Zagārī (XI-b1) owned one-third of the land. The land purchased was one half of it and the price was 250 *ūqīya darāhim qadīma sikkat ta’rīkh-hi*. It was drawn up on Document XII-vi.

After the deed, two apostilles were affixed. One is on the testimony about the two notaries’ handwriting due to their absence, its acceptance, and notification by Muḥammad b. Ibrāhīm al-Burnusī.⁶³ The other is on the testimony about handwriting of the first apostille and its acceptance.

The same text is also found in Deed 2 of Document XIII (XIII-2), including two apostilles below the deed. The apostilles in Document XIII were written in handwriting different from that of the body text and the qadi’s signature was affixed in place of his name in ordinary letters. Therefore, we assume that this is the source document of Naṣṣ 8-1.⁶⁴

Naṣṣ 9 (XII-1-9)

Date: 21 Rabī‘ II 1124/28 May 1712

Notaries: ‘Umar b. Mūsā
Aḥmad b. ? al-Mizwār

A deed of purchase of the land of al-‘Arabī b. ‘Āmir al-Zagārī (XI-b12) by

⁶³ He appears in XI-1-1-1-2 (XI-2-1-1-1-2) as a notary.

⁶⁴ See also Description of Deed 2 of Document XIII.

Ḥamm b. Daḥḥ al-Ḥayyānī al-Maskarī al-Dūmī al-‘Ulyānī (XI-h1) for 165 *ūqīya darāhim qadīma sikkat ta’rīkh-hi*. Instead of describing the location of the land, it simply refers to the deed above (Naṣṣ 7). The seller received 14 *mithqāl darāhim qadīma sikkat ta’rīkh-hi* less one half *ūqīya* and the remaining amount 25 and one half *ūqīya* would be paid in *ḥulūl*.

It was drawn up on Document XII-iii below Naṣṣ 8.

After the deed, an apostille on the authorization of the copy’s authenticity for the three deeds above (Naṣṣ 7 to Naṣṣ 9) was affixed.

Deed 2 (XII-2)

Date: 1 Rajab 1125/24 July 1713

No. of lines: 7

Notaries: signature XII-S3
signature XII-S4

A deed which establishes the acquisition of the lands of Bāb al-Ḥalūfa, Tāzrūt, and Wuljat al-‘Azafa in the Inaouène valley by ‘Abd al-Salām b. al-‘Ayyāshī Naghmūsh (XI-a16) from Ḥamm b. Daḥḥ al-Ḥayyānī al-Maskarī al-Dūmī (XI-h1) through the offset of a debt. It is the main deed of Document XII at the time of its first preparation.

The deed says that ‘Abd al-Salām Naghmūsh (XI-a16) claimed the payment of the debt from Ḥamm b. Daḥḥ (XI-h1). The debtor Ḥamm b. Daḥḥ is described with his physical characteristics. The debt was the rent of the land called Tāzrūt and the price for cloth, total amount of which was 26 *mithqāl qadīma*. The qadi court judged that Ḥamm b. Daḥḥ (XI-h1) should fulfill his duty. He paid his debt with the land which he had purchased in the deed of the same side of this document (Deed 1).

After the deed, an apostille on the authorization of the copy’s authenticity was affixed.

Deed 3 (XII-3)

Date: 24 Rabī‘ I 1138/30 November 1725

No. of lines: 3

Notaries: signature XII-S5
signature XII-S6

A deed which establishes that al-Khiḍr b. Aḥmad al-Ḥayyānī purchased the above mentioned land from ‘Abd al-Salām b. al-‘Ayyāshī Naghmūsh (XI-a16).

It is a summary of a purchase deed drawn up on another document by the same notaries as this deed.

Deed 4 (XII-4)

Date: 25 of the same month of the same year as Deed 3 (Rabī‘ I 1138)/1 Decem-

ber 1725

No. of lines: 4

Notaries: signature XII-S5

signature XII-S6

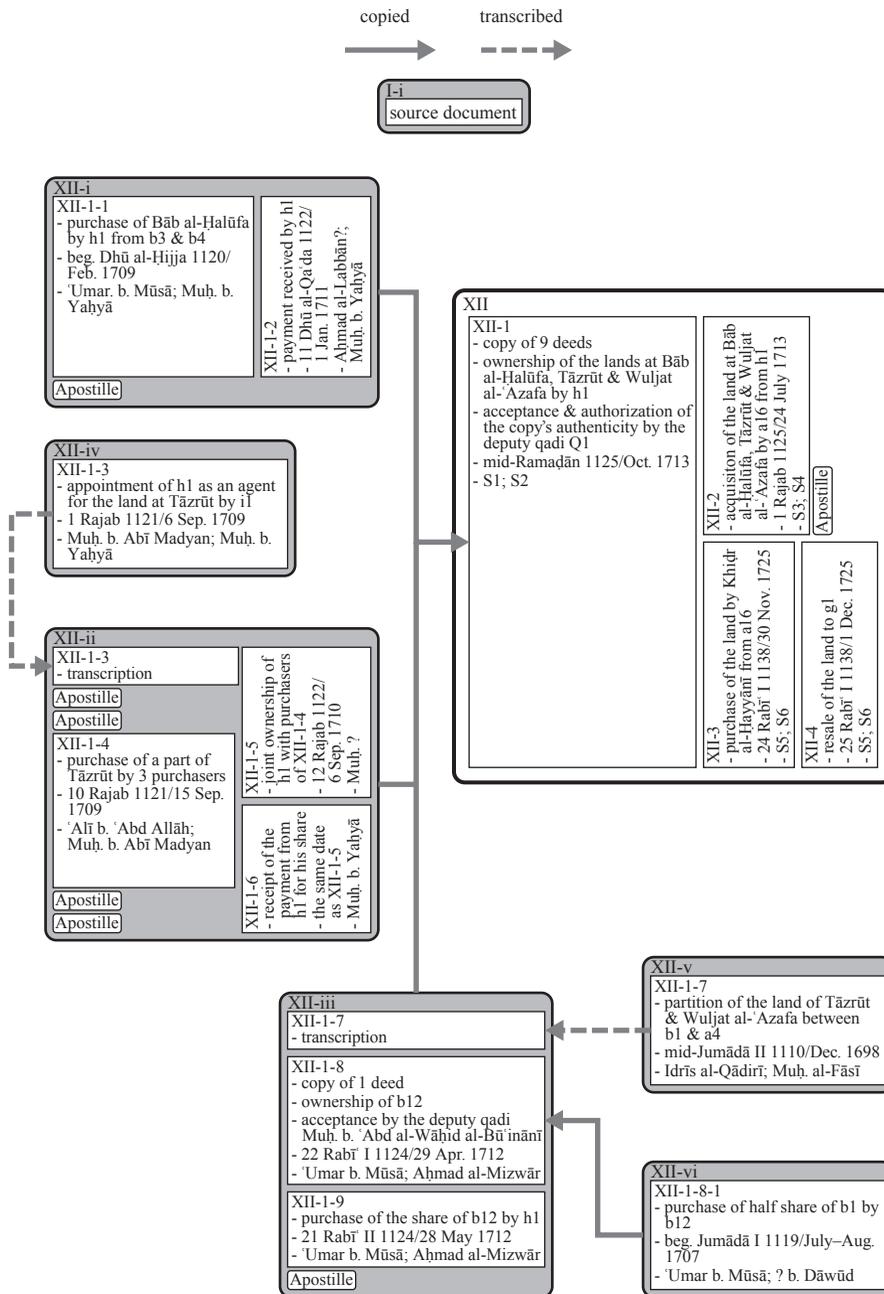
A deed which establishes that Muḥammad b. al-Tuhāmī al-Yamluḥī (al-‘Alamī) (XI-g1) obtained the above mentioned land. The deed says that the purchaser (al-Khiḍr al-Ḥayyānī) of the deed above (Deed 3) resold (*wallā*)⁶⁵ the land at the original cost of 100 *ūqīya* to Muḥammad al-Yamluḥī (XI-g1).

It is a summary of a resale deed drawn up on another document by the same notaries as this deed.

(SATO Kentaro)

⁶⁵ This contract is called *tawliya*, a resale at the original cost. It is a way of obtaining an object at a reasonable price for a person who is not accustomed to the transaction through a trustworthy person who is accustomed to it. al-Ṣanhājī, *al-Tadrīb ‘alā tahrīr al-wathā’iq al-‘adliya*, 2nd ed., vol. 2, p. 73; YANAGIHASHI Hiroyuki, *Establishment and Transformation of Islamic Property Laws*, Tokyo, 1998, p. 522 (in Japanese). In this case, Muḥammad al-Yamluḥī al-‘Alamī (g1) probably obtained the land with the help of al-Khiḍr al-Ḥayyānī, who seemed to belong the Ḥyāyina tribe, inhabitants of this region.

Chart for Document XII



Signatures of Document XII

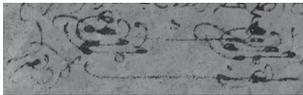
XII-1
(XII-Q1)



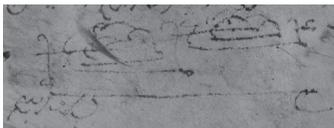
(XII-S1)



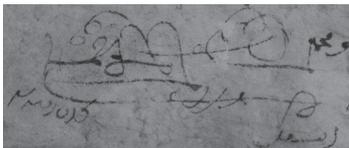
(XII-S2)



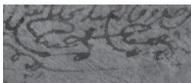
XII-2
(XII-S3)



(XII-S4)



XII-3
(XII-S5)



(XII-S6)



XII-4
(XII-S5)



(XII-S6)

