M.R.O. 1—99,000—16-10-20.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 390 Press ~~Mis.~~

60-61

Dated 12.3.1863 ~~19~~ .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
12th March 1863.

No. 60. Read the following Proceedings of Government in the Revenue Department, dated 6th March 1863, No. 477.

Passing orders on the sale of the site of the former Paper Manufactory attached to the Jail at Cuddapah, and directing that for the future the sale of Government lands and buildings be left to the Collector of the District. (Vide Proceedings Revenue Department, dated 6th March 1863, Nos. 63 and 64.)

No 61. ORDER THEREON, 12th March 1863, No. 390.

To be recorded.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. O'Connor.

Proceedings of the Madras Government, Revenue Department, 5th February 1863.

No. 58. Read the following Proceedings of the Board of Revenue, dated 26th January 1863:—

Read the following letter from A. WEDDERBURN, Esq., Collector of Cuddapah, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Fort Saint George, dated Cuddapah, 22nd January 1863, No. 9.

SIR,

1. I have the honor to request the opinion of the Board of Revenue, whether a Department occupying for public purposes, Grámanettam land, or village site, can, after its public occupation of the same ceases, sell the land for the benefit of the Department.

2. I have observed an Advertisement of the Sessions Judge in charge of the Jail, inserted in the "Cuddapah Gazette" of the 17th instant, at page 30, in which certain land formerly occupied by a paper manufactory,* which is now removed, is to be sold to the highest bidder.

* Not within the Jail premises.

3. I am under the impression that when a public Department no longer requires Government *rent free* land, the same should lapse to Government, when the Collector should determine whether it should be sold for building or cultivating purposes, or kept open for sanitary reasons.

4. I am not aware that there is any rule or precedent on the subject, but I personally expressed to the Judge my doubt whether he had the power to dispose of the land, the Advertisement of which, however, shows that he has not considered my objection valid.

5. Doubtless a private occupier of village site may transfer his right to the same to another party; but the question is whether the temporary occupation of such land for public purposes by a Department gives that Department a right to dispose of the land by sale, and to credit itself with the proceeds. I should have thought that after its occupation of the land was over, the same should lapse to Government to be disposed of by the Collector.

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1. Ordered to be submitted for the early orders of Government. The sale is advertised for the 31st instant.

2. The Board entirely concur in opinion with the Collector that the disposal of Government land, assigned for public purposes, but no longer required for them, should be left to the Collector of the District who is the local representative of the Executive Government *especially* where as in the present case the land forms part of the village site.

(A true Copy and Extract.)

(Signed.) W. HUDLESTON, *Secretary.*

No. 59. ORDER THEREON, 5th February 1863, No. 251.

The Civil and Sessions Judge is requested to report the circumstances and authority under which the premises in question were sold.

(Signed.) J. D. SIM,
Secretary to Government.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read again the Proceedings of the Board of Revenue, 26th January and recorded in Proceedings of Government, 5th February 1863, No. 251 :—

Read also the following letter from F. S. CHILD, Esq., Session Judge of Cuddapah, to J. D. SIM, Esq., Secretary to Government, Fort Saint George, dated Cuddapah, 11th February 1863, No. 16.

SIR,

1. I have the honor to acknowledge the receipt of the Proceedings of Government, dated the 5th February 1863, relating to the sale of the site of the former Paper Manufactory attached to the Jail at Cuddapah.

2. The circumstances of the case are briefly as follows :—

Soon after my arrival in June last the Collector personally drew my attention to the unused and nearly ruinous Paper Factory attached to the Jail as being not only unslightly but absolutely a nuisance which he had long wished the Judge to remove ; accordingly as the buildings were ruinous and the Paper Factory permanently discontinued, I had the buildings removed and the ground levelled by a gang of prisoners, the building materials being sold by auction. The Native Surgeon wished to have the site granted to him to build a house on, and I should have been very glad had it been given to him for that purpose, but as the ground belonged to the Jail I considered that the Inspector of Jails was the authority to be applied to, and I recommended the transfer to the Native Surgeon, at the same time mentioning that there was no doubt the ground would sell well; previously to writing to the Inspector of Jails I wrote to the Collector to learn whether the land was assessed land or Gramanathum, *i. e.*, building land belonging to a suburb of the town of Cuddapah.

3. The Inspector of Jails directed the land to be sold, and after some months and with due notice in the Gazette the land was sold on the 31st to the highest bidder, some merchants, who I am told intend setting up an English shop for which the site is remarkably well situated, being along the road, high and artificially raised, and a high price was received for it.

4. The only communication between the Collector and myself on the matter has been a remark made by him at the end of his official letter some months ago, as to whether the spot should be occupied or not, and a short private conversation one morning at the same time on the same subject as well as on the abstract question of the ownership of Gramanathum land.

5. If the Collector had intended to raise any question regarding the sale, as he has done, it appears to me to be a pity that he did not give me notice on the subject when he saw the land advertised for sale, if not before, for he must have been aware of the intended sale, months before any notice appeared in the District Gazette, and that he intended to raise the question I had not the remotest idea till the receipt of the Proceedings under reply which have been received eight days after the sale has taken place. Of course had I been informed even privately that the question was to be raised the sale would have been postponed till it had been decided. The only objection raised seems to be whether a Department shall part with property belonging to that Department and place the sale proceeds to its credit or simply make it over for the Collector to dispose of, and it appears to me that there is no difference between the building itself or the building materials and the land on which it stands.

6. With regard to the note at the foot of the Collector's letter regarding the space being left open for purposes of ventilation, I think right to observe that the site is an oblong piece abutting on the road a short distance, above half a mile from the town of Cuddapah, and the ground opposite and on one side is entirely open, and even on the other sides there are no buildings whatever adjoining it.

7. Copies of the letter to the Inspector of Jails and his reply, and of my letter to the Collector and his answer are herewith forwarded.

From F. S. CHILD, Esq., Session Judge of Cuddapah, to A. WEDDERBURN, Esq., Magistrate of Cuddapah, dated Cuddapah, 3rd October 1862, No. 143.

SIR,

I have the honor to request that you will be so good as to inform me under what head the ground occupied by the old paper buildings is entered in your accounts; and what would be the tenure under which any party either purchasing it or otherwise obtaining possession of it from the Officer in charge of the Jail would hold it.

From A. WEDDERBURN, Esq., Collector of Cuddapah, to F. S. CHILD, Esq., Session Judge of Cuddapah, dated Cuddapah, 18th October 1862, No. 569.

SIR,

1. In reply to your letter No. 143. of 3rd instant, I have the honor to inform you that the ground on which the Jail paper buildings were built is "Gramnathum," and is not subject to assessment.

2. A private person wishing to lease the land could have it at an average of the adjoining rates of land under cultivation, and be able to buy it at twenty years' purchase of such assessment. In the event of the land being disposed of by sale as it now lies, it would have to be put up to auction, but if a previous lease were secured, the lease holder would be entitled to purchase at twenty years' value of the assessment.

Note.—I would not recommend the ground being leased for building purposes, as the advantage of an open space for ventilation is obvious.

From F. S. CHILD, Esq., Session Judge of Cuddapah, to the Inspector General of Jails, dated Cuddapah, 7th November 1862, No. 1.

SIR,

1. The Native Surgeon stationed at Cuddapah has applied to me for a piece of land at a distance from the Jail, and lately occupied by the pits in which the Paper manufacture was formerly carried on. Since the manufacture of paper by the prisoners was put a stop to as unremunerative the buildings had fallen into such a state of decay as to be a public nuisance and they have been removed, and the piece of ground is therefore unoccupied.

2. It is a Gramanathum or village site land, and the Native Surgeon although he has been stationed here from four years has not yet been able to provide himself with a house.

3. He is desirous of this piece of ground being made over to him, and as it is of no use any longer to the Jail and is most centrally situated, I am very desirous that he should be permitted to take it.

4. It is very possible, indeed there is no doubt but that it would fetch a certain price in the market, but I am of opinion that Government would not object to the ground being made over to the Native Surgeon who is a resident of Cuddapah, and has a certain right to a portion of the unoccupied Gramanathum land for building on.

5. As however the land is now the property of the Jail I have thought it necessary to receive your sanction before making over the ground to him; the ground measures length 88 yards, breadth 19 yards.

6. As there will be certain alterations and repairs soon required in the Jail, and as I have heard rumours to the effect that before long the present Cuddapah jail will be taken away and a new one built, I shall be much obliged if you will let me know whether there is any foundation for such a report.

From J. ROHDE, Esq., Inspector General of Jails, to F. S. CHILD, Esq., Session Judge of Cuddapah, dated Ootacamund, 19th November 1862, No. 602.

SIR,

1. In acknowledging your letter of the 13th instant, I have the honor to state that the only condition on which the old buildings and ground could be made over without sale to the Surgeon would be as a loan, and that on his vacating the appointment the buildings should be removed.

2. Probably the better plan will be to sell the site with such buildings as remain on it by auction, and credit the amount in the Jail Contingent Bill.

3. The only new Jails sanctioned are Central Prisons at Vizagapatam and Coimbatore, and a small District Jail at Chatterpore, and I have received an intimation that no more money can be spared.

4. In any repairs of the Cuddapah Jail the outlay should be limited to patching it up for a few years' use, as I hope to relieve you of all long term prisoners.

(True Copies.)

(Signed) F. S. CHILD, *Session Judge.*

ORDER THEREON, 6th March 1863, No. 477.

1. In his letter of 22nd January 1863, No. 9, submitted with the first of these papers, the Collector of Cuddapah raised the question whether, when a Department occupying Government rent free land for public purposes ceased to require the land for those purposes, it could sell the land and credit itself with the proceeds, or whether the land should be held to revert to the Government to be disposed of by the Collector. The cause of the reference was an advertisement issued by the Civil and Sessions Judge of the sale of a piece of land formerly occupied by a Paper Manufactory which was attached to the Jail, but subsequently given up as unprofitable. The land in question was part of the "Gramanuttum," or village site, and beyond the precincts of the Jail premises.

2. The Board of Revenue concurred with the Collector that "the disposal of Government land, assigned for public purposes, but no longer required for them, should be left to the Collector of the District, who is the local representative of the Executive Government, *especially* where, as in the present case the land forms part of the village site."

3. The Government called* on the Judge to explain under what circumstances and authority the land was sold.

* G. O. 5th February 1863, No. 251.

4. The Judge in the second of the papers above recorded explains that he acted under instructions from the Inspector General of Jails, and that had the Collector given him notice that he intended to refer the question which he has raised, the sale would certainly have been postponed. He also submits copy of a letter which he addressed to the Collector enquiring on what terms the land would be held by a person buying or otherwise obtaining possession of it from the Jail Department. The Collector in his reply made no other objection than to the disposal of the land for building purposes, and this objection was based on the advantage of keeping the land clear for the sake of ventilation.

5. The Government consider the explanation furnished by the Judge to be quite satisfactory. But the instructions given by the Inspector General of Jails, viz., "to sell the site with such buildings as remain on it by auction and credit the amount in the Jail Contingent Bill," are altogether wrong.

6. Land on which Government buildings are placed belongs to the Government and not to the Department whatever it may be which occupies the buildings. No public Officer can sell such buildings or land without the previous sanction of Government, and certainly the proceeds of the sale of the property cannot be treated in the manner suggested by the Inspector General without special permission. In the present case but for the accident of the Collector's reference, the Government would never have known that its land had been sold; and they do not yet know either what it realized, or how the proceeds are to be expended.

7. To prevent future misunderstandings the Governor in Council directs that the sale of Government land and buildings when *expressly* sanctioned by them should as a general rule be left to the Collector of the District, who generally is best acquainted with the matter; but it should at the same time be open to other Departments to apply for permission to sell the land, &c., themselves when they see cause to recommend such a measure, the sale proceeds in either

case being credited to the Revenue and not to any specific Department. This rule would of course not apply to the sale of building materials or other such property, but only to land or buildings with the site on which they stand.

8. In the present case the money should be refunded by the Jail Department and credited to Government in the Collector's accounts; and application should be made by the Collector for a permanent Title Deed in the name of the purchaser, whose title is at present invalid.

(True Extract.)

Secretary to Government.

To the Board of Revenue.
" Sessions Judge of Cuddapah.
" Inspector General of Jails.
" Public, &c., Departments.
" Judicial do.
" Military do.
" Department of Public Works.

Exd. S. T. Augustin.