Legislative (1895) Department.

ORDINARY MS.

G.O., No. 126

Dated 29th Nov. 1895

35/35

[Despatch Abstract.]

MALABAR LAND REGISTRATION BILL AND A BILL TO LIMIT THE LOCAL EXTENT OF THE MADRAS RENT RECOVERY ACT, VIII OF 1865.

Recording remarks of the Advocate-General, the Board of Revenue and the Collector of Malabar on the --, in reply to G.O., No. 101, Legislative, dated 11th October 1895.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No	Department.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.

[G/11]
[illegible]00—8-8-95.

ORDINARY, MS.

Legve DEPARTMENT.

G.O., DATED 126.
No. 29-11-95

INDEXED.

~~When given for copying.~~

[Despatch Abstract.]

Malabar Land Registration Bill & the bill to limit the local Extent of the Madras Rent Recovery act VIII of 1865.

Recording remarks of the Adv.-Genl, the Board of Revenue & the Collr of Malabar on the ——, in reply to G.O. Ⓒ 101. Legve dt/ 11th October 1895.

BACK PAPER, No.

FURTHER PAPER, No.

READ AGAIN ORDER OF GOVERNMENT, DATED
189 , No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT

A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL (not paged).

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

Legve. Current No 278
1895.

From

The Advocate General
Madras

To

The Chief Secretary to Govt.
Madras

Dated 28th. October

CHIEF SECRETARY
28 OCT. 1895
GOVERNMENT OF MADRAS

Subject

The Bill to make better provision for the registration of proprietors of land subject to the payment of land revenue to Government in Malabar and the Wynaad – Forwarding further opinion on....

[illegible]

[G. / 53 A.]
300 – 14-8-95.

Legislative Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

~~READ the following paper:—~~

ORDER, dated 11th October 1895, No. 101

(i) A Bill to regulate the registration of land in Malabar.

(ii) A Bill to limit the local extent of the Madras Rent Recovery Act.

The marginally noted Bills together with the statements of their objects and reasons will be referred to the Board of Revenue, the Advocate General and the Collector of Malabar for opinion.

2. Replies to this reference should be submitted so as to reach the Government office on or before the 27th instant.

(True Extract)

Lionel Davidson
11-10

Ag. Under Secretary,
for Chief Secretary.

TO

The Board of Revenue (with copies of (i) letter to the Govt. of India, No. ~~895~~ 2521/%, Rev., dated 25th June 1895, (ii) Letter from the Govt. of India, Dept. of Rev. & Agri. No. 3399, dated 7th August 1895. (iii) Letter to the Govt. of India, No. 94, Leg., d/11-10-95. and Bills & Statement of Objects & Reasons.

,, Advocate-General ✓ (with memorandum & enclosures mentioned above together with G.O., No. 894 Rev., d/ 25-6-95 and Bills and Statement of Objects and Reasons.

,, Collector of Malabar (with Bills and Statement of Objects & Reasons)

CONFIDENTIAL.

Memorandum for the Advocate - General

To Govt of India D/ 25 June'95 No 2521 Rev.
From " 7th August'95 No 2299
To " 4th October'95 No 94
will follow

The statements of objects and reasons - with G. O. 25th. June 1895 No 394, Revenue, and the correspondence with the Government of India marginally noted, copies of which are herewith confidentially - forwarded, explain the origin and scope of the two Bills transmitted for opinion.

2. Bill No. I excludes Malabar & South-east Wynaad from the operation of Act VIII of 1865 (M).

3. As to Bill No II the following explanations and notes may help to make the purpose and form of the Bill clearer. The clauses of the Acts in the Bengal, Punjab, Central Provinces and other -- Codes which contain similar provisions have been marginally noted on the copy of the Bill annexed.

Sections 3--5 (inclusive~~x~~)

The frame of the Bill is on the lines of the summary provisions of the Punjab and Central Provinces Codes, but Sections 3 - 5 of the Bill are intended to afford

Confidential

to the janmis or persons claiming to be janmis an oppurtunity of coming forward with a statement of their claims before the Collector proceeds to make his summary inquiry.

Section 6.

"The Collector'' vide General Clauses Act. Ordinarily the inquiry will be conducted by the Divisional Officers or Special Deputy Collectors.

See S. 14

Section 7. This has been introduced to safeguard the Collector's inquiry from being called in question; but if Section 15 is sufficient for the purpose the Government would prefer to omit it. The Advocate - General will advise on the point.

Omit

No

Section 8. Proviso as to costs

Is it desirable or competent for the Madras Legislative Council to enact such a proviso? In other parts of the Presidency, in suits affecting the transfer of puttas, to which the Collector is made a party, the Civil Courts allow the Collector's costs as a matter of course.

Provision not of [illegible] which [illegible] appears to be unnecessary

But

Confidential

But it is desirable if possible that in thi Bill relating to Malabar where such suits are more or less of a novelty this should be distinctly enacted.

Section 9.

Is the word ''immediate'' likely to give rise to difficulty?

Section 11. is intended to preserve the ordinary procedure under Regulation XXVI of 1802 and the Board's Standing Orders as to transfer of puttas, in respect of all changes subsequent to the registration to be carried out under the Bill, which is meant only to give powers to effect the primary registration: (vide para 2 of Statement of Objects and Reasons.)

Perhaps it may be considered better to invert and recast the section: -- ''Nothing in this Act shall be deemed to -- affect &c ''.

Section 12. This is a vital section of the Bill and requires careful consideration as to its sufficiency.

Section 14. has been inserted to prevent appeals or applications for revision going beyond the District Collector. It is presumed that Regulation VII of 1828 preserves his right of revising the ~~R~~ proceedings of the Deputy Collectors and Divisional Officers who will actually conduct the inquiries.

had better
be provided
for

Confidential

Confidential

Re. Bill to exclude Malabar and the South East Wynaad from the operation of Madras Act VIII of 1865.

and

Bill to make better provision for the registration of proprietors of land subject to the payment of land revenue to Government in Malabar and the Wynaad.

Opinion.

1. With regard to the first of the Bills above mentioned, no remarks seem to be necessary. The object sought to be attained is a *very* simple one, and the short Bill carries it out.

2. With regard to the second of the above mentioned Bills, I have the following remarks to make:-

Section 6. Omit the word "best" before "entitled".

Section 7. appears to be unnecessary, for Section 6 directs the Collector to "ascertain and determine by such summary enquiry as he thinks fit" who "is best entitled to be registered as proprietor" &ca., and Section 15 is sufficiently wide to prevent the Collector's summary enquiry from being called in question because of the mode in which he conducted it.

I think that such a provision as that which is contained in this Section is inadvisable. If a Collector acted strictly upon the words of the Section, his proceedings would be exceedingly arbitrary - could hardly be called an "enquiry" at all, and his decisio if arbitrary, might lead to injustice. There must b an "enquiry" in the proper sense of the word, though summary.

Section 8. The Section should, I think, be thus amended: for "made in accordance with the procedure prescribed by this Act" substitute "under Section 6", omit "or order"; add after "jurisdiction" the words "declaring the title to the land so registered".

The Proviso seems to be out of place in this Section, and to be unnecessary.

Section 9. The word "immediate" is rather too indefinite, and might give rise to difficulty. Under the circumstances contemplated in this section, is publication in the District Gazette a sufficient notice of registration to the person affected thereby?

Section 11. I think it will be better to invert and recast this section as suggested.

Section 12. I suggest the following amendment of this Section.

"Every person registered as proprietor of an estate
shall be deemed to be the land-holder in respect of
such estate within the meaning and for the pur-
poses of Madras Revenue Recovery Act II of 1864,
and no Civil Court shall [have jurisdiction to en-
uire into or adjudicate upon] proceedings taken or "set aside"
gainst such land-holder under the said Act on
he ground of any error in such registration

alone".

After careful consideration of this Section, I think it will suffice for the purpose intended.

Section 14. I think it will be safer to specifically provide that where the inquiry under this Act is conducted by a Deputy Collector or a Divisional Officer, the revisional powers of the District Collector under Madras Regulation VII of 1828 are unaffected by any thing contained in this Act.

Section 15. The only "matter which the Collector is empowered by or under this Act to dispose of" is the question as to the person entitled to be registered as proprietor of an estate. The legal owner is entitled to sue for possession, or for a declaration of his title to the land, and, if successful, the registration must be altered or amended so as to conform to the decree of the Civil Court. That being so, what is the meaning of the first part of this Section?

The phrase "take ~~expres~~ cognizance of the manner in which the Collector exercises any powers veste in him" is somewhat vague.

3. I think the arrangement of the Sections is capable of improvement, e.g. Section 9 should precede Section 8, and Sections 10 and 13 should be 15 and 16 respectively

Madras 22nd. October 1895.

From

The Honorable J. H. Spring Branson
Advocate General

To

The Honorable J. F. Price
Chief Secretary to Government.
Fort Saint George

Sir,

With reference to G. O. No. 101, Legislative, dated the 11th. instant, I have the honor to forward herewith my opinion on (1) the Bill to regulate the registration of land in Malabar and (2) the Bill to limit the local extent of the Madras Rent Recovery Act, and to return the papers sent therewith -

I have the honor to be
Sir
Your most obedient Servant

J H Spring Branson.

Advocate General

Revenue 1895 Dept.

~~Legve Drft current no 277~~

1895.

~~Current Number 7804.~~

From

The Advocate General
Madras

To

The Chief Secretary to Govt:
Madras

Dated 22nd October

UNDER SECRETARY
23 OCT 95
PUBLIC & ETC DEPT.

Referred to the Revenue D
with the request that
may be furnished as
opinions received necessitate
change in the Bills before
Council

Lionel Davidson
25-X-9

22.10.95

Recd 25 Octr.

Enclosures (10).

Subject

Bill to regulate the registration of land in Malabar
and
Bill to limit the local extent of the Madras Rent Recovery Act. Forwarding opinion on the........

Confidential.

Madras 28th October 1895.

From

The Honorable J. H. Spring Branson
Advocate General

To

The Honorable J. F. Price
Chief Secretary to Government
Fort Saint George

Sir,

With reference to the Bill to make better provision for the registration of proprietors of land subject to the payment of land revenue to Government in Malabar and the Wynaad, I have seen Mr. Forbes since writing my opinion dated the 21st instant, and have read the telegram from the Government of India in which it is suggested that provision should be made in this Bill for the case of a person claiming to be jenmi paying arrears of revenue to prevent a sale of the land because of the default of the registered jenmi. If I remember correctly, (I have not got the telegram before me) two suggestions were made, (1) to compel the defaulting jenmi to relinquish the land in favor of the claimant who saves it from sale for arrears of revenue, or (2) to make such payment a charge upon the land.

In continuation of my opinion above mentioned

1895. Dep^t

I have the honor to make the following remarks:-

1. I respectfully differ from the Government of India. I think such a provision is entirely out of place in a Bill of so limited a character as that under consideration. The Bill is intended simply to provide for registration of land for fiscal purposes, and the enquiry necessary to enable the Collector to decide in whose name land is to be registered for such purposes is necessarily most summary. Title is unaffected by such enquiry and registration, and, where title is in dispute the rival claimants can appeal to the Civil Courts-

The suggested provision appears to me to be quite outside the purpose for which the Bill was drafted-

2. I confess that I do not understand the suggestion that the "real" Jenmi shall "relinquish" the land to the claimant who saves it from sale for arrears of revenue- ~~[illegible]~~ I assume that the "real" Jenmi referred to in the telegram is the person in whose name the land is registered, but what is meant by "relinquish" and how is he to be compelled to relinquish? If the registration is to be altered to his prejudice then what is to happen? If he is the legal owner and in possession, he cannot be deemed to be a trespasser because some one without his authority, and perhaps even without his knowledge pays arrears of revenue due- He cannot sue for possession or declaration of title merely because the registration is altered- It would be unjust under the circumstances to compel him to sue to have the land re-registered in his name- Let the person paying the arrears establish in the Civil Courts his title to the land if he claim it, and thereupon the registration by the Collector must be altered- If his claim be established, he requires no charge on his own land for a payment he was legally bound to make-

If he is not entitled to the land as jenmi he is not "a person interested in the payment of money which another is bound by law to pay" within the meaning of Section 69 of the Indian Contract Act. In making that payment, he does nothing for another person within the meaning of Section 70 of that Act, but pays the arrears of revenue for his own supposed benefit and on his own account, and the mere fact that the registered jenmi has benefited by the payment gives the person paying no cause of action against him-

I have the honor to be
Sir
Your most obedient Servant

J. Spring Branson.
Advocate General.

IFIDENTIAL.

100 copies.
4-12-94.

Proceedings of the Board of Revenue

(Land Revenue),

Dated 23d October — 1895.

No. 5366 Mis:
Confl. No. 110

Full Board.

READ the following papers:-

(a) Proceedings of the Madras Government, No. 101, Legislative Department, dated 11th October 1895,

aking a verbal correction

(b) Memorandum from Government, No. 2457, Legislative Department, dated 12th October 1895.

Resolution.

With reference to the bill to exclude Malabar and the South-East Wynad from the operation of Madras Act VIII of 1865, the Board has merely to express its concurrence in the desirability of the proposed measure.

2. On the bill for the registration of Proprietors the Board ventures to offer the following remarks:-

3. Section 2 - "Estate". The definition may give rise to doubt as to whether the forests and waste lands of Malabar are "prospectively subject to the payment of land revenue", or

whether they are excluded from the scope of the Bill.

4. Section 6 – Mistakes in registration are certain to be numerous, and it would seem expedient to confer on the Collector the power to correct errors either upon, or without, application. A provision somewhat to the following effect might follow Section 6.

"Pending and subject to any decree or order of a competent Civil Court, the Collector may, at any time within one year of such registration, after recording his reasons in writing, alter or correct the register. In such case notice of the alteration or correction shall be given to the parties concerned."

5. Section 7. For "party" the Board would read "applicant", and would omit "to such dispute."

6. Section 8. The Board entertains doubts whether a local act can restrict the power conferred on the Court by Section 220 of the Code of Civil Procedure (Imperial Act) to apportion costs at its discretion.

7. Section 12. After "no process taken against him" the Board would add "or against any land registered in his name". Cases often occur in which process has to be taken against land of which the puttadar is dead, or cannot be found, and it would seem desirable to leave no room for the contention that the process referred to in Section 12 is exclusively process against the person.

Instead

[redacted]

Instead of "on the ground merely of any error in such registration", the Board would prefer "on the ground that the person registered is not the real proprietor."

8. Section 14. It would seem a matter for consideration how the Collector is to be controlled in the exercise of the very wide powers vested in him by Section 10(2) of the Bill.

9. Section 15. Insert "shall" before "take cognizance of."

10. Section 16. At the beginning of this section the Board would insert "Except as provided in Section 12." If these words are not inserted Section 16 does not appear to be in harmony with Section 12, inasmuch as it would enable a suit to be brought for a declaration of right to immovable property which had been brought to sale for arrears of revenue, and would thus frustrate the very object of the proposed Act.

11. Section 7 of the Bill leaves it open to the Collector to shirk the trouble of enquiry altogether, but the Board is not prepared to say that so wide a discretion as this Section confers can be curtailed. If the Collector were bound to receive evidence as in a Civil Suit, the task of registration would probably occupy one man for a lifetime.

(True Extract)

Secretary

To
The Chief Secretary to Government
Legislative Department.

Xd GwL

Copied P.C.

Revenue 1895 Dept

~~Leg Current No. 272~~

CONFIDENTIAL

1895.

Board of Revenue

(Land Revenue),

MADRAS.

Current Number 4803

To

THE ~~COLLECTOR OF~~ Chief Secretary to Government Legislative Department.

CHIEF SECRETARY 24 OCT. 1895 GOVERNMENT OF MADRAS

Recd 25 Octr.

Proceedings, dated 23d October 1895.
No. 5366 Mis:
Confl No. 110

Abstract.

Submitting to Government Board's opinion on (1) Bill to regulate land registration in Malabar, and (2) Bill to exclude Malabar & S. E. Wynad from operation of Madras Rent Recovery Act.

[redacted]

Enclosure

Special Dy. Collector's Office
Camp-Parli - 19th October '95

To

The Collector of
Malabar.

office note

Adverting to your Ref. on Cur. No. 4194/R95 dated 14th Instant I beg to submit herewith an office note containing my remarks on the two Bills forwarded to me for opinion.

(Signed) G. T. Burgess
Special Dy. Collector

(True Copy)

M Ramachandran
For Ag. Collector 23.10

Enclosure

Part I.

Remarks on the Bill to make better provision for the Registration of Proprietors of Land subject to the payment of Land Revenue to Government in Malabar and the Wynad.

The registration of Jannam Titles is a very difficult operation. The people are generally ignorant of the object of registration or of the circumstances which have led to it. The Tenant-Pattadars imagine that the Government is going to deprive them of the small margin of profit secured to them by their leases. There are some who think that the completion of the operation will result in the loss of their position as respectable landholders paying a considerable sum as revenue to Government.

2. The Jannmis on the other hand do not view the measure as an unmixed blessing. Some of them are so poor that they have nothing beyond the name. They feel that with the introduction of the New Settlement their Jannam rights will depart from them

and they will be reduced to beggary. Others think that notwithstanding the terms of the leases which provide for the payment of the enhanced assessment by the tenants, the enforcement of the terms will be problematical and that the burden of the inevitable assessment will have to be borne by them alone. The tenants are afraid that they will incur the displeasure of their Jannis and render themselves liable to eviction, if without their previous consent, they come forward and name the Jannis under whom they hold. The apprehensions of the Jannis are so many that under present circumstances, they are not inclined to come forward and apply for registration.

Key [illegible] will be the stipulation disallowed [illegible] nothing [illegible] for the

3. An enactment is therefore very necessary to empower the Collector "to ascertain who the Jannis or proprietors to be registered are, and in case of dispute, to determine this by summary enquiry leaving objecting parties to have

their

their titles established in the Civil Court"

4. Section 3 provides that "any person who is or claims to be the proprietor or joint proprietor of an Estate may, if his name is not already registered, make application to the District Collector, or to an officer empowered by him to receive such application for the registration of his name as proprietor of the Estate". To enable the Collector "to ascertain and determine by such summary inquiry as he thinks fit the person who is best entitled to be registered as proprietor" as provided in Section 6, it is of the utmost importance that the present Pattadars (whether tenants or Jannis) should be legally bound to come forward and file statements giving particulars of their Jannam lands, and lands held by them on Kanom or other forms of tenure and covered by their pattas.

They can be summoned under III of 69 & then he will be legally bound "to come forward". The question whether the Collr's Court making the enquiry is a Rev. Court, & whether he can administer oaths must be referred to the Adv. Genl.

Yes. If the A.G. says 'no' the proper course will be to amend III of '69

5. The Collector has, in his printed Malayalam Circular Rep. on Cir. No. $\frac{3781}{R95}$ dated 16-9-95 (as an English translation of this Circular is on record in the Huzur

I

I do not submit one) directed Tahsildars to invite the Pattadars by printed notices, forms of which are appended to the Circular, to file such statements and the adoption of the course prescribed by the Collector with any modification that may be found necessary, will meet all requirements. If therefore the procedure can be legalized, it will immensely facilitate registration. It is unnecessary to point out that the Pattadar is the only person known to us officially for purposes of realizing the assessment on lands, and that all efforts without him, to trace the Janmi and make our Revenue Settlement with him will be ineffectual. The settlement with the occupying tenant which has been in existence for nearly a Century is to be given up and the settlement is to be made with a totally different class of persons.

6. To proceed to change the old course and adopt the new, without providing for effective assistance being rendered by those with whom we have been dealing hitherto will seriously affect the security of the public revenue and the prosperity of the landholders. When the Janmis are given the option of applying for registration, the present pattadars are the only persons who can supply correct and useful information to form the basis of the summary enquiry referred to in section 6.

7. Another reason why the responsibility of furnishing correct information regarding the Janmi and the lands held from him should be thrown legally upon the Pattadar is that the names of lands as given in the pattas differ widely from those given in the demises and leases granted by the Janmis. The following statement taken from 3 petitions out of those presented to me yesterday will serve as an illustration of this difference.

dent see how
i affects the
uestion. The
our is [illegible] to take
p the case of any
articular piece
of land (whatever
its name may be)
& after summary
inquiry register
some one as
proprietor

MA 25

Name as given in the Patta.	Name as given in the document
I. (1) Adiyarpadom Nilom Vadakke Khannam അടിയാരപാടം നിലം. വടക്കെക്കണ്ണം:	Valiya Vinthan. വലിയവിന്താൻ.
(2) do — Nilam ഠ — നിലം	Cheriya Vintham. ചെറിയവിന്താൻ-
(3) Patinhare padom Nilom alias Valiyil padom വാളിയിൽ പാടം എന്ന പടിഞ്ഞാറെ പാടം നിലം-	Kilangot Patinhare Padom. കിലാങ്ങോട് പടിഞ്ഞാറെ പാടം-

II (1) Alankot

II (1) Alankote Potta Nilom alias Maniyarath Padom മണിയാറത്തുപാടം എന്ന ആലക്കോട്ടപൊറ്റനിലം	Karanamparakkal Vadakke Atamarikal കാരണംപാറക്കൽ വടക്കെ ആതാമരിക്കൽ
(2) Alinkal Potta ആലിങ്കൽപൊറ്റ	Thalepotta താഴെപൊറ്റ.
(3) Kilpadom Nilom കീഴ്പാടംനിലം.	~~[illegible]~~ Thavramuli തെവ്രമുളി.
(4) Nelliyampadom Nilom നെല്ലിയമ്പാടംനിലം.	Parakkal Kandom etc പാറക്കൽകണ്ടം മുതലായവ.
(5) Kottenkotu Potta കൊറ്റൻകോട്ടുപൊറ്റ	Vadakke Potta of Sabhakulam. സഭക്കുളത്തിന്റെ വടക്കെ പൊറ്റ.
(6) Purathodika Paramba പുറത്തൊടികപറമ്പ (7) Kudiparamba കുടിപ്പറമ്പ	Kunnu~~[illegible]~~paramba കുന്നുപറമ്പ.
(8) Koraparamba കൊരപ്പറമ്പ	Kunnuparamba കുന്നുപറമ്പ-
	Kunnuparamba alias Western paramba of Kunnuparamba കുന്നുപറമ്പിന്റെ പടിഞ്ഞാറെ പറമ്പ എന്ന കുന്നുപറമ്പ-
(9) Thannirpanthil Paramba തണ്ണീർപന്തൽപറമ്പ-	Kunnuparamba കുന്നുപറമ്പ-
(10) Manyampara Paramba മഞ്ഞമ്പാറപ്പറമ്പ	Maniyampara Kala Paramba- മഞ്ഞമ്പാറക്കളപ്പറമ്പ.
(11) Nelliyankad Paramba നെല്ലിയങ്കാട്ടുപറമ്പ-	Manyarampara Kala Paramba. മഞ്ഞാറമ്പാറക്കളപ്പറമ്പ.
(12) Nelliyankad Paramba നെല്ലിയങ്കാട്ടുപറമ്പ-	Mannathodika Paramba- മണ്ണത്തൊടികപ്പറമ്പ-
(13) Thottoram Paramba. തൊട്ടോരംപറമ്പ	Kunnumparamba കുന്നുംപറമ്പ.
III-(1) Thottupadom Nilom തൊട്ടുപാടംനിലം	Ennakandom എണ്ണക്കണ്ടം.
(2) Thottupadom Nilom തൊട്ടുപാടം നിലം	Pangadi Kandom പങ്ങാടിക്കണ്ടം-
(3) Thayankote Nilom തായങ്കോട്ട് നിലം-	Kundu Kuzhi Kandam കുണ്ടുകുഴിക്കണ്ടം-
(4) Thayankote Nilom Vadakke Kannam തായങ്കോട്ട് നിലം വടക്കെ കണ്ണം	Chemparathi Potta ചെമ്പരത്തിപൊറ്റ.
(5) Thayankote Nilom തായങ്കോട്ട് നിലം	Nayarmuli Kandom Thazhathe Kandom നായരമുളിക്കണ്ടം. താഴത്തെക്കണ്ടം.

This sort of discrepancy has been found to exist in almost every case that has come before me. It is a source of perplexity to the Pattadar and the Jenmi alike.

Not the registered proprietor

8. To leave it unnoticed or unexplained will enable the Jenmi to evade the payment of revenue and every process for its realization will be called in question. There is already so much agitation against the contemplated Settlement of the District that unless measures are taken to secure correspondence between the names of the lands as given in the existing pattas and in the title deeds the Jenmis are sure to make the discrepancies a ground for still further protesting against the Settlement. For this reason alone every Pattadar should be required to furnish Jenmiwar particulars of the lands shown in his pattas; to give the names in the pattas and in the title deeds in juxtaposition or in any other convenient form and

But we shall collect the revenue by the Survey Number of the lands, not by any name and to declare on oath that the particulars so furnished are correct according to the best of his knowledge information and belief.

9. I beg, now, to offer the following remarks on some of the Sections of the Bill.

Section 2 (I) 'Estate' as defined in Section 2 excludes tanks and reservoirs. Claims to tanks have actually been preferred, and as the definition stands now, such claims cannot be entertained.

We do
to re-grant
tanks doesn't
revenue to
If it does
to be re-grant
it is covered by
tank or not
JM JG

(II) I beg to suggest that the phrase "Summary inquiry" as used in Section 6 may be defined and brought under the definition of "Judicial Proceeding" in the Madras General Clauses Act I of 1891 which is identical with the definition in Section 4 (d) of the Criminal Procedure Code. It would also be necessary to declare unequivocally that the Collector acting under the proposed enactment is a Revenue Court within the meaning of Chapter XXXV of the Criminal Procedure Code. Instances may arise in which action will have to be taken under this Chapter, and unless the Collector in the discharge of the duties imposed by the new enactment is competent to

The Adv. Gen
be asked about
effect of the
See above
Minute sent
28/10/95
Unnecessary! JG
?
I don't quite th
this necessary
cause what the A
Gen. says JM

Desirable but not absolutely necessary? JG
? JM

to act promptly as a Revenue Court, he will not be in a position to ensure obedience to the law. It may be remarked that the term 'Revenue Court' as defined in Sec. 4A(2) of the Civil Procedure Code has a distinct meaning.

Section 3 (III) "If his name is not already registered" in Sec. 3(1) is not wide enough for the admission of the application of a person claiming to be registered as a sole proprietor when he is entered only as a joint proprietor. To meet such cases the words "or correctly registered" may be added after "registered".

Unnecessary JG

Vague. Once a man is regd., whether rightly or wrongly, it is not for the Collr. to alter the regn., unless at the request & with the consent of the parties, but for the Civil Courts. JM

(IV) The words "or joint-proprietor" should be inserted after the word "proprietor" in the phrase "for the registration of his name as proprietor of the estate", at the end of clause 3(1) to provide for the admission of a claim preferred by a person claiming as joint-proprietor.

I see no harm in this JM

Unnecessary JG

Section 4. (V) It may be necessary in individual cases to grant time to apply for registration after the prescribed date. I presume that Section 4 does not contemplate the alteration of the date fixed for the local area concerned on

No alteration needed JM JG

and prosperity of the District.

Camp. Parli
19th October 95 (signed) G. T. Vurgese
Deputy Collector
on Special Duty

(True copy)

Mamachandran
22 Oct
for Acg. Collector

S.h.
23+
28/10

1895
REVENUE DEPARTMENT
Enclosure No. 2
Current No. 7837
5
Leg 6
274
1895
Leg 6
34

Enclosure

Circular to all Tahsildars.

Ref one No. 3781/R.95

All Revenue officials and the general public of this District are aware of the publication in the District Gazette of a proclamation of the Government of Madras discontinuing the practice hith-to in vogue of issuing pattas in respect of priv Jenmam lands, to the actual occupants and to the tenants holding under Jenmis, and introducing the system of settling with the real Jenmi of each land and granting pattas accordin

2 Proceedings No. 1158/R.95 dated the 24th July last was circulated to all Tahsildars intimating the appointment by Government of two Deputy Collectors for the registration of Jenmam titles under the said proclamation and the fact of their having already started operations in the Palghat and Walluvanad Taluks and of the nature of their work.

3. As the said Deputy Collectors will dispose of only cases where the Jenmam title is in dispute it will be the duty of the Tahsildars to ascerta the disputed Cases and place them before the said Deputy Collectors for disposal. To this end Tahsildars should issue notice to all Pattada in the Form attached hereto. In accordance with this notice, each pattadar will have to put in three separate applications, forms of which are printed on the reverse of the said notice. Form No. I is intende to show which of the items covered by his patta are to

the applicants' Jenmam, and No. II which of such items are not his Jenmam, and No. III is the application for registry in his name of such lands as are wrongly registered in the name of other persons. (4) Printed forms of the applications and the notice referred to will be supplied to Tahsildars who will distribute them amongst the pattadars as soon as practicable, through the amsam officials and Revenue Inspectors.

5 On receipt of application in accordance with the notice aforesaid, Tahsildars must in undisputed cases transfer registry to the name of the Jenmi after recording ~~all~~ of application or Statement from both the Jenmi and the tenant.

Tahsildars may call upon the Pattadars to produce with the aforesaid applications (Nos. I, II and III) all documentary evidence in support of their claims. In the ~~Case~~ Event of an application not being presented either by the tenant himself or by the Jenmi and the tenant jointly, Tahsildars will proceed to transfer the registry in the name of the Jenmi after giving due notice in Form IV and V. Form No. IV is the notice to be issued to the existing pattadar and Form No. V is that to be issued to the apparent Jenmi. In the Case of lands in a desam covered by a single patta but belonging to several Jenms, there should be separate application in respect of lands belonging to each desam. The lands belonging to more than one Jen[illegible] sho[illegible] not be mixed up in the same application.

6. In disputed cases Tahsildars should abide by the orders received from the Dy Collectors or reports made to them. The amsam officials will furnish the Deputy Collectors through the Tahsildars with a statement showing particulars of residence &ca of parties who~~[illegible]~~ ~~[illegible]~~ hesitate to put in application for transfer of registry and those concerned in cases where the registry cannot be transferred by reason of the Jenmam Dispute to enable the Deputy Collectors to secure their attendance by direct issue of Summons.

7 Application in disputed cases should be in Form No. VI and stamped with an 8 as Court fee label. ~~They~~ These may be delivered in persons either to the Dy Collectors themselves or to the Tahsildars. Those received by the Tahsildars should be submitted to the Deputy Collectors for disposal.

The following distribution of Taluks have been made.

1 Palghat	Dy Collector Mr. G. T. Vargese.
2 Ponani	
3 Ernad	
4 Calicut	
5 Walwanad	Dy Collector Mr. Gopalan Nair.
6 Kurumbranad	
7 Kottayam	
8 Chirakal	

8. In the Case of Palghat and Walwanad Taluks, the operation as regards certain amsams will be carried out by the Deputy Collectors themselves till such time as the Tahsildars are able to receive applications and submit them to the Dy Collectors. Information as to the amsams taken up by them will be given to the Tahsildars Concerned. Dy Tahsildars will make such enquiries as they are required to.

9. In Calicut, Chirakal, Kottayam and Ernad, pattas should be issued to the parties concerned at the Completion of the enquiry and the registration of Janmam title. As transfers of registry are made in Palghat, Ponani, Kurumbranad and Walwanad taluks, the necessary alteration can be made in the existing pattas. To avoid delay in the issue of pattas, Tahsildars are authorized to sign them.

10. It is in this manner that the operation is to be Carried on. If the work Conducted on these lines in a few amsams shews that alterations are necessary in the instructions or forms, the fact should be reported by the Tahsildars, through the Dy Collectors after 3 months. Necessary instructions will then issue.

11 Revenue Inspectors will see that the amsam officials perform this work expeditiously and that Pattadars and Jenmis present the necessary application without loss of time.

The

The adhigaris and Menons will be held equally responsible for the performance of the duties connected with this matter. The adhigaris will place the service of the amsam peons at the disposal of the Menons as occasion requires. The Tahsildars will warn these officials that any dereliction of duty on their part will be severely dealt with.

12. If instead of following the above instructions the Tahsildars consider it more convenient and easy to summon each pattadar before them and record the necessary particulars there is no objection to their doing so. This course may be tried in a few amsams and the result reported.

(Signed) H. Moberly.
Acting Collector.

To
All Tahsildars with Spare Copies
Deputy Tahsildars.
Divisional officers.
Special Deputy Collectors in charge of
Janmom titles with Spare Copies.

(True copy)

For Ag. Collector

At
23.oct

S.a.
23.10

189 5
Rev Dept
Enclos. No
To 321
G. No.

5
Rev
Enclos. No 5
To 274
G. No.

Legs.
REVENUE DEPARTMENT.
Enclosure No. 3
Current No. 7837

Enclosure

A

Notice to — of — Desham — amsham — Taluk. Pattadar No. —

You are hereby required to either present a petition personally to the Adhikari, Revenue-Inspector, Deputy Tahsildar, or Tahsildar or transmit it by post registered within two months from the date of this notice enclosing three forms, viz, one showing what items of lands included in your patta are your jenmam, another showing which of the lands in your patta are the jenmam of other people, and a third one showing your jenmam lands included in the pattas held by other people or which are not included in any patta being unassessed and which you consider to be your jenmam.

2. Separate statements should be prepared for each desham. Several deshams should not be included in the same

A

Same statement.

Tahsildar

Instructions

1. Each set of statement should be submitted separately for each desom.

2. Two different matters should not be set forth in the same petition.

3. This petition does not require a stamp.

4. The three forms referred to in the notice are given on the reverse.

I Stamp not required

Petition of ___ Puttahdar No. ___ of desom ___ of amsom. Of the lands included in Patta No. ___ the undermentioned lands of ___ Desom are my Jenmam (Separate application for each desom)

Survey No.	Sub Division No.	No. as per Revenue Register or Patta	name of land as given in the patta	assessment as per patta	Remarks

II. Stamp not required

Petition of ___ Pattadar No. ___ of desom ___ of ___ amsom ___ Taluk.

Of the lands included in the above patta the undermentioned items of ___ desom are not my Jenmam. (Separate application for each Desom)

Survey No.	Sub Division No.	No. on the Rev. Register or patta	name of land as given in the patta	assessment as per patta	under what Jenmi held	nature of applicant's right over the land	Remarks

III

Petition of — of — Taluk — amsom.

I request that the undermentioned lands situated in — Desham which are not in my patta at present may be registered as my Jenmam as they belong to me as my Jenmam.

In whose patta now		as given in the Patta					
no. of patta	name of Pattadar	Survey no.	Sub Division no.	Revenue Register or Patta no.	name of land	assessment	on what right held by pattadar

Mramachandran
2306
For Ag. Collector

S.R.

Ne
23/10

189 5
Leg Dep
Enclos No. 4
To 324
C. No.

5
Leg
84
274

1895
REVENUE DEPARTMENT
Enclosure No. 4
Current No. 7837

[redacted]

Enclosure

IV

From the office of ....

notice to ..... Putta holder No. .... residing in ..... Desam..... amsam..... Taluk..

The lands shown ~~within~~ below and included in your patta appear to be the Jenmam of the person shown against each. Unless you shew reason for not transferring the assessment of each land in the name of its jenmi on ....189 the assessment of each land will be transferred in the name of its jenmi.

Survey no.	Sub Dn no.	no of Rev. Register	name of land	assessment			name of Jenmi

Yadast   Forwarded to the Adhikari of ...... amsam for service.

This should be served by giving

the duplicate thereof to the person mentioned in the notice or to an adult male member of the house and his signature obtained in the original. If both of the above are not feasible the notice may be served by affixing the duplicate of it on the door.

Manachandran

For Ag. Collector

Sh.

M
23.10

1895
Leg Dept
Enclos. No. 3
To
C. No. 321

1895
Leg
Enclos. No. 2
C. No. 224

1895
REVENUE DEPARTMENT.
Enclosure No. 5
Current No. 7837

V

From the Cutcherry of ——

Notice to —— of desam —— amsam

The lands described below and assessed in the name of —— as Pattadar no —— of —— amsam appear to belong to you in jenmam. If there is any objection to the transfer of assessment in respect of them to your name you should represent the same within —— date —— month ——. In default, the assessment will be transferred to your name.

Survey no.	Sub division no.	Revenue Register no.	name of land	assessment	Remarks

Note:— The notice is forwarded to ... amsam Adhigari for service. The service should be affected by delivery of the copy of the notice either to the party or to the adult male member of the house and by obtaining his signature on the original. The notice should be served by affixing it to the outer-door, only when service cannot be affected in both the ways above specified.

This should be served by the amsam peon

This notice should be served by the amsam Adhigari.

Tahsildar

This should be returned after service by the peon

Adhigari

The notice is resubmitted after service by —

Peon.

The notice is resubmitted after service as directed above.

Adhigari

For Collector

Sh. The 23.10

1895 Reg 2 321

1895 Reg Dept. Enclos. No. 2 To 274

1st REVENUE DEPARTMENT Enclosure No. 6 Current No. 4837

Enclosure

(See Stamp) To —

application of — residing in — Desam — Amsam of — Taluk.

I understand that the lands specified in the schedule here to attached and which are my jenmam property are wrongly registered in the name of — residing in — Desam — amsam of — Taluk. as his jenmam. I pray that the claim may be enquired into and the lands registered in my name.

Situation of land			Description of the land as specified in the patta				Nature of Claims advanced	Evidence proposed	Remarks
Taluk	Amsam	Desam	Sub Div. or Letter	area		Name of Survey number or Sub Division			
				acres	cents				

N.B. See instructions on the reverse.

1. Separate application should be presented in resp
of lands in each desam. otherwise the applica
will not be accepted.

2. This application should be affixed with a court
label of 8 annas.

3. The application may, if possible, be produced be
the Tahsildar, in person, or delivered to the D
Tahsildar, Revenue Inspector, or amsam officer
concerned for the same being forwarded to
Tahsildar, or sent to Taluk by post.

4. Notice will be given to both the applicant an
the opposite party of the date of hearing the c
The parties should have in readiness all documen
evidence in support of their claim to be produced
at the hearing. No further time will be granted
unless on sufficient grounds.

Manachandran
23
For Ag. Collector

5
Leg
1
324

Sh
Re
23.05

189
Rev Dept
Enclos. No. 7
To
C. No. 274

1895
REVENUE DEPARTME
Enclosure No. 7
Current No. 7837

would draw attention to the Special Deputy Collector's remarks as to the necessity of making the present pattadars legally liable to give information as to their Jenmis.

I have the honor to be,

Sir,

your most obedient Servant.

J Hewetson

Ag. Collector

Sa.

Ma

21.10

1. Revenue 1895 Dept.

~~CURRENT NO. 274~~

~~Current Number 4834~~

2. Leg

From

3 The Collector of Malabar

To

The Chief Secretary to Government Legislative Deptt

4 Madras

CHIEF SECRETARY
25 OCT. 1895
GOVERNMENT OF MADRAS

Dated 21st October 1895
Despd
Recd 25/10
Recd 28/10.

Encls – 7

Subject.

Submitting remarks on the Bills to regulate the Registration of Land in Malabar and to limit the local Extent of the Madras Rent Recovery Act.

P. T. O.

Dp/22/11.

Read also Cur. 7803 + 7810

Secy ~~CURRENT-NO 324~~

Endorsement (Cur.) No.

25 NOV. 1895

Re-transferred to the Legislative Department with the remark that the necessary action has been taken in this* Department.

Lionel Davidson
21. xi

W. 22/11

Ag. Under Secy. to Govt.

* Partly in Legve. also; these have been considered at the meetings of the Select Committee

Fort St. George
29. xi. 95
Recd 25
Regd 26 } 11-95

D 21/11

Note These currents are the replies from the Board of Rev., the Advocate General and the Collector of Malabar, to G.O. No. 101 Legislative, dated 11-10-95. The Bill "to limit the local extent of the Madras Rent Recovery Act" having been ~~forwarded~~ referred for the consideration of a Select Committee, it is submitted that no further action need be taken in the Rev. with reference to

RPM 30/11

Legve. DEPARTMENT.

Papers to be read in Proceedings:—

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. 271. of 1895, dated 22nd octr from the Adv. Genl
272 " " 23rd octr " the Board of Revenue
274 " " 21st octr " " Collr of Malabar
Current No. of 189 , dated from the Rev Dept
Endt. No. 4739 " 22 Novr "

Order No. 126 d/ 29-11-95

Mis Recorded.

D 29.11.95

CRV 26/11.

1.

2.

3

Malabar Land Registration Bill

N

copying ______ } 189 .

______

ned. ______

______

No. DATED

TO C, No

DER OF GOVERNMENT .. .. A A A A A A A

GOVERNMENT.

WITH DITTO.

NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.