

Legislative (1897) Department.

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G.O., No. 32

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[Despatch Abstract.]

Bill further to amend Madras Act VIII of 1865

Coming to the legislative Council, a petition from K. Krishna Rao, manager, Devanikota zamindari, Kistna district, praying that the amendments proposed by the Honble V. Raghayam Aiyangar in regard to sections 7+10 of Act VIII of 1865 may be passed into law.

BACK PAPERS.

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Legislative (189) Department.

CURRENT No. 88

From K. Krishna Rao
Manag, Devarakota
Zemindari
Kistna Dist

Order No 32 Legislative 27.3.4.97
D.S.

Communicated to the Legislative

No.

Council

Dated 29/3

To The Hon. Members of the Legislative Council
Note

Received 2/4

Registered 2/4

Enclosures

Spare copies

This will be printed with paper docket

too as a paper relating to the Hon

Bill.

CRV
2/4/97

SUBJECT.

Pragme that
the amendments proposed
by the Hon V. Bhaskaram Lingam
in regard to sections 7 & 10 of
the Madras Act VIII of 1865
may be passed into law
immediately.

BACK PAPERS

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT No. 86

To.

The Secretary
to Government of Madras.
Legislative Department.

The humble representation
of K. Krishna Rao, manager,
Devankota Zamindari,
Kistna District.

Honourable Sir,

I respectfully beg to represent that
in the interests both of the landlords and
tenants the amendments proposed by the
Honourable Mr. Bhashyam Iyengar in regard
to sections 7 and 10 of Madras Act VIII of 1865
are warranted and their immediate passing
into Law is a boon to the country.

2. The opposition which the amendments
have met with needs an enquiry into the
existing grievances of the Zamindars and
their tenants.

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3. No tenant of a Zamindari would now willingly come forward to execute a Muchilka whatever may be the concessions shown him by the landlord. He thinks his execution of the Muchilka would bind him to pay the rent and to abide to the conditions mentioned therein and in the absence of which he can dispute any patta which his landlord tenders and that with no penalty to himself. He wishes to take advantage of his landlord's acts and to evade payment of any rent. It is not possible for a landlord with all the wisdom he possesses and with all the legal advice he takes to frame such a patta which his tenant would be bound to accept and the penalty prescribed therefor is the loss of the entire amount of his rent.

4. The decisions of the Courts vary and any amount of vigilance on the

3. part of the landlord is useless. The penalty to the landlord is out of proportion and it is not the interest of the tenant to execute a Muchilka or accept a patta. On the other hand would the tenant benefit himself? No; he shall have to bring suits to set aside the distraint if the landlord distrains his property after tendering a patta or to file an answer for a suit for rent. In either case he spends the rent which he had to pay to the landlord, in Courts and would not be in a better position even if he succeeds in his contention. The landlord loses his rent plus his costs for an unintentional mistake or for an insertion of a condition which the Courts have latterly held to be not legal.

5. The applicability of section 7 of the

present Recovery Act to suits in the Civil Courts and the vitiability of the patta in its entirety for a flaw in it and the consequent disability of the landlord to recover any rent, are the basis for all such contentions.

6. The Zamindari of Devarakota was under the management of the Collector of Kistna as Receiver appointed by the High Court of Judicature at Madras for fusties 1297 to 1299 and when the Estate was to be delivered over to the Zamindar in August 1890 the number of Summary Suits in the Revenue Courts was more than 350 relating to the tenants of Kidumolu, Pedasanagallu, Lyngunki, Arupudi, Chinamutteri, Mallampalle and Kosoor, villages of the Zamindari.

7. The Zamindar tried his best to settle with the tenants but the villagers of Kidumolu and Pedasanagallu would not yield and appeals were carried to the High Court of Judicature at Madras. Vide Indian Law Reports 17 Madras p. 50 and 43. The High Court considering the patta

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tendered by the Zamindar in the case of Pedasanagallu ryots to be a proper one with the exception of one particular viz 2 Rupees per Cent. Revenue which the tenants have been paying for a long series of years, reluctantly decreed for the tenants.

8. Several suits were similarly dismissed on different grounds by the Revenue and District Courts

(a). Some on the ground that the patta contained the word "etcetera".

(b). Some on the ground that the patta had a condition to the effect that the tenant should be bound himself for all the conditions which the Musilka which he executed in the previous years contained.

(c). Some others on the ground that the patta contained a condition that the tenant was prohibited generally not to build houses on lands, without specifically saying that he should not build houses which are not intended for agricultural purposes.

9. On the whole with my economy in litigation the Zamindar lost 370 Summary suits brought to set aside the distraint about 350 appeals against summary suits 150 suits for rent in the District Munsiff's Courts and a similar number of regular appeals in the Subordinate and District Courts. The amount covered by the said suits was about Rs 20000. When some of the tenants and myself came to terms and settled our accounts the tenants had their items of expenditure totalled to the same extent which they otherwise would have paid to the Zamindar ^{on account of rent.} It is therefore necessary that the amendment should at once be made.

As to the long expected New Rent Bill becoming Law, It cannot be very soon expected. For the last 15 years from 1881 to 1896 it has been under contemplation and it may take some years more

to its becoming law. After all it does no harm if the said Bill becomes Law the sooner, as the present amendment will also class itself along with other provisions of Law (Act VIII of 1865) and will undergo any necessary change. In the year 1871 when there was the necessity, the Act was amended and further amendments were latterly proposed.

As to the amendment of sec. 10. The amendment is absolutely necessary as some of the ill-minded landlords have been taking advantage of the said provision. The penalty it prescribes to the tenant is similarly disproportionate as section 7 is to the landlord if not more though it is levied in a very few cases unlike sec. 7 which levies the penalty in each and every case almost.

I therefore beg to represent both in the interests of the Zamindars and their tenants, that the amendments proposed by

the Honorable Mr Bhashyam Iyengar
may be passed into law at once.

I beg to remain,
29th March 1897 } Honorable Sir,
Masulipatam } Your most obedient servant
K. Krishna Rao.
Manager Devarakota
Laminidari, Kistna
District

Govt of Antst George
Leyre Dept.

Papers

(No 16)

Relative to

A bill for the to amend
Mans Act of 1865

(Communicated to the Leyre Council)

Go. No 32 Leyre 734.97