1. Number of pages. 12
2. Date of repair. 3-7
3. Initials of Referencer.

M.R.O. 1—32 400—22-11-30

MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

Cons. 5-5-57

G.O. No. 858 Press Mis.

Dated 4-5-1857

Not to be folded or roughly handled

Fort Saint George, Public Works Consultation of 5th May 1857.

No. 96. Read the following Extract from the Proceedings of the Board of Revenue, dated 27th March 1857, No. 967.

In Consultation 27th March 1857. Read letter from the Collector of Salem, dated 6th December 1856.

(Here enter No. 157)

In the above letter the Collector furnishes the information required by Government in Extract Minutes Consultation 4th August 1856, No. 1345, P. W. D. regarding the best means of irrigating the Village of Valeyaputty in the Salem District.

2. This village was formerly irrigated from the surplus water of Yeddachicolum tank. On this tank being breached in 1818 the Mootahdar to whom it belonged turned the bed of it into paddy fields instead of restoring it. The Valeyaputty village was thus deprived of the means of irrigation and its revenue fell off. The Civil Engineer in 1854 proposed the construction of two new tanks at an estimated cost of 5,368 Rupees, but the Government wished enquiry to be made in the first instance as to whether it would not be preferable to repair the Yeddachicolum Tank which operation would cost only Rupees 719.

3. Information on this point was furnished by the Chief Engineer as mentioned in the Extract Minutes Consultation above referred to and the Collector was thereon required to afford further information through the Board on two points. The letter under consideration is the Collector's reply to this call. The first of these whether the Mootahdar has any right to the land cultivated in the bed of the tank or can demur to the repair and restoration of the work.

4. It will be seen from para. 12 of the Collector's letter that in 1821 the then Collector attached all Porumboke lands brought under cultivation by several Mootahdars subsequent to the permanent settlement and that in 1824 their restoration was ordered by the Board and Government on this occasion the Board expressed themselves as follows. "The cultivation of the beds of tanks left dry by the failure of the rains or filled up by the operation of seasons, they believe, to have been customary from time immemorial and they are of opinion that so long as the Mootahdars did not interfere with the private rights of individuals whose lands were excluded from the accounts which formed the basis of the permanent Jummah they were at liberty to cultivate any part of their estates in the manner which they considered most advantageous to their own interests, or rather to receive the Government share of the produce of the lands so cultivated by the inhabitants. The question at issue as far as the Board understand it is whether the Government or the Mootahdar are entitled to the Sirkar share of the produce of these lands. The Board have no doubt that where the permanent settlement holds, the right is in the Mootahdar."

To Government 8th November 1824. From do. 3rd December 1824 No. 771 R. D.

Board to Government 4th October 1821, paras. 4 and 5.

5. In reviewing this report the Government remarked "with respect to the Porumboke lands the Governor in Council agrees in your opinion that if not expressly they were at least understood to be included in the permanent settlement, and therefore that no collections should be made from them on account of the Cirkar."

From Government No. 908, 7th December 1821, R. D.

6. The Board are of opinion that this absolute recognition of the Mootahdars right to Porumboke lands in itself renders it impossible for Government now to contest the point even if the decisions of the Court on the question permitted it.

From Government 3rd August 1824, No 525, R. D.

7. In the present instance moreover the Mootahdar has held undisputed possession of the lands in the bed of the Yeddachicolum tank for many years, and the statute of limitation might be pleaded in bar of any suit preferred by Government. The next question put by Government was whether if the right of the Mootahdar should be admitted it would be the best and cheapest course to compensate him for the loss of the land and to restore the Yeddachicolum tank.

Section XVIII, Regulation II, 1802.

8. The Collector states that the bed of the Yeddachicolum tank according to the Survey accounts comprises 190-9-9 acres of land of which in Fusly 1263 acres 126-27-4 were cultivated, 78 as "irrigated" and 47 as "unirrigated" land.

9. The entire village is held on a permanent cowle by the Father-in-law of the Mootahdar, the lands under cultivation in the bed of the tank are entered in the names of the Lessee's partners and of different ryots in nearly equal portions so far as extent is concerned.

10. The full assessment of the cultivated lands is Rupees 918-5-1 but at the cowle rates they only yield Rupees 336-12-9. The Collector does not state whether the Mootahdar was influenced by the Lessee's relationship to him in fixing so favorable a rate of assessment; but they presume that so great a reduction as ⅓ds of the regular assessment would not have been conceded under ordinary circumstances.

11. The value of land in Salem is usually computed, the Collector states at 8 times the annual assessment for "irrigated" and 3 times for "unirrigated" land. The value of the land in question would therefore be Rupees 6,594 or Rupees 2,384 according as the full or the cowle assessment is taken as the basis of computation. The latter represents the actual loss to the Mootahadar by resumption of the lands; but it would leave the permanent Lessee and other occupants without any compensation for their losses, improvements, &c. The Mootahdar would be legally liable for these and therefore the Board think that the first mentioned sum, viz. 6,594, should be adopted as an approximate valuation of the land.

12. The lands which will be submerged by the two new tanks are acres 117-29-11, in extent, of which acres 90-18-12, are under cultivation and acres 27-10-15, waste. The full assessment at the existing rates amounts to Rupees 300 and as the holders are willing to take lands under the new tanks in exchange this sum represents the annual loss which will be sustained by Government adopting the same mode of calculation as in the case of the Mootahdar lands, the value of the area submerged will be Rupees 1,594.

13. The estimate for the repair of the old tank was Rupees 719, and that for the construction of the two new tanks is Rupees 5,510. Hence the relative cost of the projects including the value of land submerged &c., will be Rupees 719+6,594 = 7,313, for the restoration of the old and Rupees 5,510+1,594 = 7,104, for the construction of the new or Rupees 209, in favor of the latter.

14. Again assuming that the entire Ayacut of the old tank could on the restoration of that work be brought under cultivation as "irrigated" and would yield to the Mootahadar or the Lessee as much as the lands now cultivated by his two tanks the Collector doubts whether the compensation which it would still be necessary for Government to grant added to the cost of repair would not exceed the estimated cost of the new tanks.

15. The Collector's letter is not very clear on this point but it is unnecessary to discuss this question, if as appears imperative, the Mootahdar's right to the lands in the bed of the old tank be admitted.

16. Another important consideration however is the circumstance that the survey accounts do not show that the Yeddachicolum tank was an acknowledged source of supply to the Valeyaputty village (which is directly watered from another work) and that no such right was reserved at the Permanent settlement. It is therefore an open question whether such a right could now be established although undoubtedly the Valeyaputty lands derived great advantage indirectly from the drainage of the Yeddachicolum tank.

17. The construction of the new tanks would ensure a direct supply of water to Valeyaputty which would thus be in a better position than before while Government would derive the entire benefit without risk of disputes and litigation.

18. Taking all these circumstances into consideration the Board concur in the Collector's opinion that the construction of the two new tanks proposed by the Public Works Department would be more to the advantage of Government than the restoration of the old tank of Yeddachicolum.

(Signed) J. D. SIM,
Acting Secretary.

Fort Saint George, Public Works Consultation of 5th May 1857.

No. 97. ORDER THEREON, No. 858; dated 4th May 1857.

With these Proceedings, the Board submit a letter from the Collector of Salem, furnishing information required by Government in Extract Minutes of Consultation, dated 4th August 1856, regarding the best means of irrigating the village of Valeyaputty in that District. This village was deprived of its usual source of irrigation by the breach in Fusly 1228 (A. D. 1818,) of the Yadachicolum tank, and estimates were submitted for constructing two new tanks for the supply of the lands in the village, in preference to restoring the old tank, the Moottahdar having turned its bed into paddy fields. The estimates were considered in the two orders of Government noted in the margin, and in the latter they requested the Collector to consider and report upon the right of the Moottahdar to the land which he had cultivated in the bed of the Yadachicolum tank, and if such right were admitted to report further whether it might not be a better and a cheaper course to give him compensation for the loss which he would sustain by the restoration of the tank, than to make two new tanks. This report is now furnished.

From Board of Revenue, D. P. W., dated 22nd Jany. 1855, No. 82.
Do. Chief Engineer, dated 2nd April 1856, No. 2209.

Revenue 9th February 1855, No. 181.
P. W. 4th August 1856, No. 1345.

2. The Collector states that the land comprised in the bed of the tank in question was deducted from the assets of the Moottah, and that on this ground the Government might have disputed the Moottahdar's right to appropriate it as he has done, if objection had been raised at the proper time, but that such claim at present is barred by the provisions of Section XVIII. Regulation II. of 1802. Mr. Brett adds that no objection was raised during a long course of years to such enjoyment, because, as a general rule, the Moottahdars have been allowed to treat the beds of tanks as their own property, and he refers to the orders of Government in 1821 and 1824, recognizing the right of the Moottahdars to Perumpoke lands. It is also explained that there is nothing in the survey accounts, or in the position of the Yadachicolum tank, to show that it is an acknowledged source of supply to the lands belonging to Valeyaputty. The Government having, in the orders quoted by the Collector and the Board conceded the right of Moottahdars to the Perumpoke land in their estates, do not now intend to contest the point, but with reference to the general remark made by Mr. Brett and acquiesced in by the Board that the right of Government to demand the assessment on land held rent free for more than twelve years, is barred by Section XVIII. Regulation II. of 1802, the Government consider it necessary to prevent future misconception, to draw the Board's attention, and to request that they will attract that of the Collector to Section VIII. of Regulation XXXI. of 1802, which expressly exempts the public demand for assessment from the operation of the Law quoted by Mr. Brett, and the Board.

To Board 7th December 1821.
To " 3rd " 1824.

3. In a Financial point of view also the Collector is in favor of the construction of the two new tanks. The compensation for the bed of the tank to which the Moottahdar will be entitled, is set down at Rupees 6,594, which, with Rupees 719, the probable cost of restoring the old tank, amounts to Rupees 7,313, whereas the construction* of the new tanks, together with the value† of the cultivable land that will be submerged by them, amounts to Rupees 7,104, and shows a saving of Rupees 209. In conclusion Mr. Brett points out that, by constructing the two new tanks, the Government would avoid all chance of dispute with the Moottahdar, that they would afford a direct supply of water to the large tract now lying waste; that the Valeyaputty village would be in a better position than it held before the Yadachicolum tank was breached, and that Government would derive the entire benefit of the undertaking.

* Rupees 5,510
† " 1,594
7,104

4. The Board of Revenue concur in the Collector's opinion that the construction of the two new tanks would be most to the advantage of Government. The Right Honorable the Governor in Council is satisfied from the information that has now been placed before him by the Board, that the construction of the new tanks is advisable and he accordingly directs that the estimates alluded to above in para. 1, amounting to Rupees (5,510) five thousand, five hundred and ten, be entered in the Budget of 1858-59.

(Signed) H. FORBES,
Acting Secretary to Government.

PWD

1858

From the Minutes of Consultation
Under date the 4th May 1857

Read the following
Extract from the Proceed-
-ings of the Board of Reve-
-nue.

Were ended 27th March 57 No. 967

With these Proceed-
-ings the Board submit a
letter from the Collector
of Salem, furnishing infor-
-mation required by Govt.
in Extract Minutes dated
4 August 1856, regarding
the best means of irriga-
-ting the village of Valy-
-apatty in that District.
This village was deprived
of its usual source of
irrigation by the breach
in

in July 1228 (A.D. 1818),
of the Yadachicolum Tank,
and Estimate prepared and
submitted for constructing
two new Tanks for the
supply of the lands in
the village, in preference
to restoring the old
Tank, the Mootkadar
having turned it to bed
into paddy fields. The
Estimate were consid-
-dered on the two
orders of Govt noted
in the Margen, and in
the latter they
requested the Collector
to consider and report
upon the right of the
Mootkadar to the
land which he had
cultivated on the bed
of the Yadachicolum
Tank, and if such
right

From 1st Asst Collr Dist 11 of 22d July /55
No 82.
— 2 — Chief Engineer 4th 2d April /56
No 2209.

Rec'd 7th July /55 No. 181
Rec'd 4 Augt /56 — 1345.

right were admitted
to report further on
whether it might
not be a better and
a cheaper course to
give him compensation
for the loss which he
would sustain by
the restoration of
the Tank than to
make two new Tanks.
This report is now
furnished.

2 The Collector
states that the land
comprised in the bed
of the Tank in ques-
-tion was deducted
from the assets of
the Mootah, and
that on the ground
the Govt might have
dispensed the Moot-
-kadar's right to
appropriate it as he
has

has done so, objection had been raised at the proper time, but that such claim at present is barred by the provisions of Sections XVIII Reg. II of 1802.- Mr. Brett adds that no objection was raised during a long course of years to such encroachment because as a general rule, the Mocottahdars have been allowed to treat the beds of tanks as their own property, and he refers to the orders of Govt in 1821 and 1824, recognizing the right of the Mocottahdars to Permanfotta lands.

It is also explained that there is nothing in

This is simply the Statute of Limitation from which land at present held by Mocottahdars is exempted by Reg VIII 1802

Board's Dec. 1821. — 1824.

in the survey accounts, or in the position of the Yadachicolum Tanks, to show that there is an actual source of supply to the lands belonging to Valeyapatty. The Govt[x]

[x] ment having, in the orders quoted by the Collector and the Board conceded the right of Mocottahdars to the Permanfotta land in their Estates, do not now intend to contest the point, but with reference to the general remark made by Mr. Brett and acquiesced in by the Board that the right of Govt to demand the assessment on land held rent free for more than twelve years, is barred by Section XVIII Reg. II of 1802, the Govt consider it necessary to prevent future misconception to draw the Board's attention, and to request that they will attend that of the Collector to Section VIII of Reg. XXII of 1802 which expressly exempts the public demand for assessment from the operation of the law quoted by Mr. Brett, and the Board.

3..... In a financial point of view also the Collector is in favor of the construction of the two new Tanks. The compensation for the bed of the Tanks to which the Mocottahdar will be entitled, is set down at Pagodas 6,594, as such with Rs 719, the probable cost of restoring the old Tanks, amounts to Rs 7,313, whereas the construction

construction of the new Tanks together with the value of the cultivable land that will be submerged by them, amounts to Pr. 7,104, and shows a saving of Pr. 209- Sir conceives Mr Brett points out that by constructing the two new Tanks, the Govt would avoid all chance of dispute with the Mottahdar, that they would afford a direct supply of water to the large tract now lying waste, that the Valayaputty village would be in a better position than it is held before the Yadachicolum Tank was breached, and that Govt would derive the entire benefit of the undertaking.

The

* Pr. 5,570
1594
7,104

4 The Board of Revenue concur in the Collector's opinion that the construction of the two new Tanks would be most to the advantage of Govt. The Right Honorable the Governor in Council is satisfied from the information that has now been placed before him by the Board, that the construction of the new Tanks is advisable, and he accordingly directs that the Estimate alluded to above in para 1 amounting to Rupees 5,510 / Five thousand five hundred and ten, be entered in the Budget of 1855/57.

9 Copies to the Chief Engr
3 — Do — Fort St. George
with an Index Engr.

Public Works 1857 Dep.t
Dr. to Cons.s 5.th May
No. 858.

Extract Mins. of Cons.:
Dep.t 4.th May 57.

Sanctioning for entry
the Budget of 1858/59, Esti-
mates Amounting to Rs.
370 for constructing two tanks
on the Village of Valeyapat-
ty in the Salem District.

fog 6 & 97.

C.17 April R21 "C29" M.