

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 584	Press Mis.
266-267	
Dated 18-3-1862	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
15th March 1862.*

No. 266. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Chepauk, 15th August 1861, No. 4,453:—

SIR,

Board's Proceedings, No. 2,578, dated 29th May 1860. 1. I am directed by the Board of Revenue to submit for the orders of Government, with the following explanation, the accompanying papers relative to a dispute as to the proper division of a lunka, between the two villages of Kota and Kotapalli in the Kota Ramachendrapur Taluq of the Godavery District.

2. The Island in question was formed in 1850, opposite to the above villages which adjoin each other on the same bank of a branch of the Godavery, and belong to Government and the Rájá of Vizianagram respectively. Its area is estimated at 440 acres, of which 88 acres or one-fifth acre at present cultivable, the remainder being sand or covered with the grass peculiar to the islands in the Godavery.

3. In reporting the appearance of the Island to the Collector in 1850, the Amildár recommended that, pending the settlement of some objections raised by the Kota villagers to a decision passed in 1838 by the local authorities regarding the future division of the island, the formation of which was only anticipated at that time, it should be rented out to the highest bidder, which course meeting the Collector's approval was adopted, and in May 1860 a sum of Rupees 8,143, being the accumulated rent of 10 years, was in deposit in the Treasury.

4. The decision of 1838 above referred to, was passed under circumstances which will be briefly repeated here, but which are fully explained in the Memorandum contained in the first of the Board's Proceedings marginally specified above, of Mr. R. E. Master, who, as Deputy Director of Revenue Settlement, minutely inspected the site of the Island, and carefully perused all the papers connected with the case.

5. It appears that certain disputes having arisen as to the boundary line, the collection of ferry fees, &c., between the abovenamed two villages, both which at the time belonged to Zamindári estates forming parts of the Vizagapatam and Rajahmundry Districts respectively, Mr. Mason, the Head Assistant Collector of the former, and Mr. Knox, Assistant Collector of the latter District, were deputed to the spot, and in the year 1838 passed a decision fixing the boundary line between the two villages and settling the other points in dispute. As already stated, the lunka was not in existence at this time, but as the future appearance of one in that locality was probable, the Officers abovementioned, in order to prevent future quarrels, and the necessity of again visiting the spot to decide them, fixed before-hand the principle of division on which any lunka forming should be held by the villagers respectively. Three days before this decision was passed, the Kota villagers, in an Arzi to Mr. Mason, objected to any such settlement about the expected lunka, but without effect. In two subsequent Arzis however, presented by the same people to the Collector of Vizagapatam in the same month complaining of the decision generally, no mention is made of this point, and the decision on all other points has held good, and no further disputes as regards them have arisen.

6. By the boundary line fixed in respect of the island in 1838, it so happens that most of the cultivable soil now available in the latter falls to Kotapalli, which is naturally displeasing to the Kota villagers who point out another line which, upon a *prima facie* view of the case, appeared to the Board to be the fairest and most natural boundary. Mr. Master has stated that the present condition of the Island, by which Kotapalli benefits to a larger extent than Kota, is by no means permanent, and may, from the very nature of the Island, be in a few years reversed, and that his decided opinion, in which the present Collector agrees, is that the line fixed in 1838 should be confirmed.

of Government.

*Proceedings of the Madras Government, Revenue Department,
15th March 1862.*

7. As the dispute however, though actively participated in by the villagers, is really between the Rájá of Vizianagram and Government to whom the Kota now belongs, and as the Board doubted the validity of that part of the decision of 1838 which professed to settle the future ownership of lands not then existing, and were moreover apprehensive of the effect which an acquiescence in it would have upon the claims of Government to similar Islands, the papers were referred to Mr. Dale who has stated his opinion that Messrs. Mason and Knox had no power to decide the future ownership of lands non-existent, and that it is impossible to foresee what use might be made of an acquiescence on the part of Government in that decision.

8. In communicating Mr. Dale's opinion to the Collector, the Board expressed themselves willing to recommend to Government that the matter be left to arbitration without any reference whatever to the decision of 1838, and the Collector in his last letter marginally indicated above, reports that the Rájá consents to the proposition.

9. As the Island in question is, however, stated to be actually a new formation, the site of which was covered with deep water in 1838, and to be much closer to the mouth of the river (a fact to which the Collector seems to attach some importance) than other Islands to which the claim of Government, on the ground that they were new formations, has been deemed maintainable, the question arises whether, in point of law, the Rájá has a right to share in it. The law pertaining to lands newly forming in the beds of navigable rivers, as argued in the Calcutta case cited by Mr. Dale on a recent occasion, and reported at page 267 of Volume VI of Moore's Appeal Cases, would appear to give Government a right to all islands forming in the bed of a river such as the Godavery, for it is only by proving accretion that any private rights can be maintained in respect of land in a navigable river not lawfully alienated from the State.

10. Under these circumstances, the Board have resolved to submit the case for the orders of Government.

No. 267.

ORDER THEREON, 15th March 1862, No. 584.

The Government consider it desirable that Mr. Dale's opinion should be taken as to whether the claim of Government, under the decision quoted in paragraph 9 of the Board's Proceedings, can in this case be upheld, or whether under all the circumstances it would be advisable to settle the dispute by arbitration. The Government are of opinion that the right of the State should be asserted, if it can now be successfully maintained.

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

No. 2,578.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 29th May 1860.

Read the following letter from A. PURVIS, Esq., Collector of Godavery District, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George; dated Bendamurlunka, 16th May 1860, No. 62:—

I have the honor to submit, for the consideration and orders of the Board, copy of a settlement proposed by the Deputy Director of Revenue Settlement of a long-standing dispute to an Island in the Godavery between the Government village of Kota in the Ramachendrapuram Taluq and the village of Kotapilli belonging to the Rajah of Vizianagram.

2. Mr. Master has very fully and fairly detailed the circumstances of the dispute, and I fully concur with him in opinion that the decision of the two gentlemen deputed in 1838, to settle sundry matters in dispute between the two villages, should be adhered to; but as the interests involved are of some importance; as the Island was not in existence when Messrs. Mason and Knox passed their decision, and as a claim to all land newly forming in the river has lately been

put forward by the law Officers of Government, I hesitate to assent to the proposed settlement without the authority of the Board. The Island in dispute is unquestionably a new formation, and it is situated considerably nearer the mouth of the river than the Islands which have lately been the subject of discussion. At the same time no claim to the Islands on the above ground has ever yet been put forward.

Proceedings of the Madras Government, dated 17th June 1859, No. 802.
Government Pleader's letter to Government, dated 20th February 1860, No. 30.
Order thereon, 25th February, No. 296.

Faslis.	R.	3.
1260...	300	
61...	1,325	
62...	180	
63...	310	
64...	668	
65...	1,200	
66...	960	
67...	1,150	
68...	900	
69...	1,150	
	8,143	

3. Since the formation of the Island in 1850 the rents of the different Faslis, as per margin, have been kept in deposit, the total amounting to Rupees 8,143. If the decision of the Deputy Director of Revenue Settlement is to be carried out it will be necessary to decide whether the division of the money between the Government and the Zemindar is to be made according to the shares of the total area of the Island falling to each, or according to the shares of the cultivable portion of it. The former appears to me to be the only course that can be adopted. It will be almost impossible now to ascertain the proportions which were cultivated on either side of the boundary in past Faslis.

ENCLOSURE No. 1.

Proposed Settlement of the Lunka disputed between Kottapilli and Kota in the Taluq of Kota Ramachendrapuram.

This dispute is one of long standing, but there is nothing in it to have prevented an earlier settlement. Kota is a Government village in the Kota Ramachendrapur Taluq and Kottapilli is a village in the same Taluq belonging to the Raja of Vizianagram. The two villages adjoin each other and both abut on the north bank of the Gowtami branch of the Godavery, which at this point runs very nearly from west to east. Certain disputes having arisen as to the boundary line between the two villages, also as to certain other points, viz., the collection of ferry fees and the roads along which religious processions should be conducted, and Kottapilli being under the management of the Collector of Vizagapatam, whereas Kota belonged to Rajahmundry, a Committee composed of an Officer from each District, viz., Mr. Mason, the Head-Assistant Collector of Vizagapatam, and Mr. W. Knox, Assistant Collector of Rajahmundry, was deputed to the spot in 1838, and on the 10th September of that year, the Committee passed a decision fixing the boundary line between the two villages and deciding the other points in dispute. At that time (1838) the lunka at present in dispute did not exist, but lunkas have ever been a fertile source of

protracted squabbles and ill-will, and the Committee foreseeing that it was very likely that one would form, and wishing to prevent future disputes, and the necessity of again visiting the spot to decide them, by fixing beforehand the limits within which any lunka forming should be held by the villages respectively, at the time of deciding the other matters in dispute, decided this also.

The mainland boundary between the lands of the two villages was found to run from north-west to south-east till it reached the river's bank, and the Committee decided that, in the event of a lunka forming in front of it, the mainland boundary punta should be extended across it in a straight line south-east as far as the old Kota lunka, all the land to the east of such line to be assigned to Kota, that to the west of it to Kottapilli. The accompanying rough sketch will illustrate the decision, A is the village of Kottapilli, B that of Kota, AB the boundary punta separating the two villages on the mainland, C and D are lunkas in the undisputed possession of Kottapilli, E the disputed lunka, F a lunka belonging to Kota, G is a portion of land on the southern shore of the river belonging to Kottapilli, H a similar portion belonging to Kota, I the village of Kamini in Amlapur. This decision, passed 21 years ago, has never been reversed, and no attempt is even now made to impugn it so far as it affects the mainland boundary, and the other disputed points (the lunka alone excepted). No lunka formed till 1850, in September of which year the people of both villages reported that a lunka had begun to form. The Kottapilli people claimed the portion to which they were entitled under the decision of 1838, but the Kota people demanded that a line should be drawn straight north and south from the mainland boundary punta and that all east of that line should be given to them. The Amildar in reporting the case to the Collector stated that the Kota people claimed more of the lunka than they were entitled to under the former decision, and he recommended that the newly-formed lunka should for the present be let out to the highest bidder and the amount held in deposit, till the matter could be settled at the next Jamabandi. The course proposed by the Amildar was approved by the Collector. The lunka was ordered to be rented out, and the rival claims to lie over till he could have an opportunity of personally inspecting the place. This was in 1850, and though ten years have elapsed no decision has been arrived at. Each year the lunka has been rented out to the highest bidder, the cist has been held in deposit pending the settlement of the dispute, and at this moment a sum of Rupees 8,143, being the accumulated cists of ten years, is in deposit in the Treasury.

It now becomes necessary, in carrying out the demarcation of the Taluq preparatory to Survey, finally to settle this long-standing dispute. The Kottapilli people simply claim that the decision of 1838 should be adhered to and the lunka divided accordingly.

The Kota people on the contrary claim now, as they did in 1850, that the boundary line be run due south from the mainland boundary punta and that all the lunka east of it be given to them. The grounds on which the demand of the Kota people is based, are, that formerly the lands of their village stood where the disputed lunka now stands, and have since been washed away, and that as they have land on the south side of the river opposite to the disputed lunka, all of it falling between the mainland of Kota to the north, and the mainland of Kota to the south of right belongs to them. They bring forward several elderly parties who state that within their remembrance the old Kota stood a long way (1,000 fathoms they say) south of the present Kota. On reference to the sketch it will be seen that from the tri-junction of the mainland of the two villages with the river, the latter takes a turn and in place of running due east trends in a north-east direction to where the present village of Kota stands. It is not at all likely that the river bank has fallen in, within the memory of man, to the extent stated by the elderly parties aforesaid, and the 1,000 fathoms are doubtless an exaggeration. Still supposing for a moment that the ancient Kota really stood a mile to the south of the present one, the spot on which it stood will still, under the decision of 1838, fall to Kota, so that they have nothing to complain of on that score. There seems no reason whatever to disturb the decision of 1838, and it is only to be regretted that it was not at once

carried out on the lunka first forming. The decision was deliberately made by two Officers expressly deputed to the spot to settle once and for ever all points of difference between the two villages, and there can be no doubt that at that time the site of the disputed lunka was the deep water of the river. The Kota people addressed an urzi to the Head Assistant Collector on the 7th September 1838 (apparently presented on the spot) three days before the decision was made, in which they deprecated any decision being come to about the lunka at that time; but as the object of the Committee was to prevent future disputes and not to foment them, this representation was not attended to. They also addressed the Collector Mr. Smith on the 10th September 1838, the day on which the decision was passed, and again on the 13th of the same month, complaining of the injustice of the decision generally, but it is worthy of remark that in neither of these urzis is anything said on the subject of the lunka. The decision on all the other points has held good, and no further dispute with regard to any of them has arisen.

The lunka's extent is estimated at 55* puties, of which only one-fifth, or * Acres 440. 11 puties, is at present cultivable, the remainder being sand, or covered with long lunka grass. That which is most displeasing to the Kota people no doubt is that the portion which under the decision of 1838 falls to Kottapilli is by far the most valuable, most of the rich cultivated soil being west of the boundary line. This, however, is a mere chance, and is, moreover, by no means a permanency. A few years hence the Kottapilli portion may be covered with sand, and the Kota portion with rich deposit. The dispute although causing great excitement between, and actively taken up by the respective villagers is not really to be looked on as one between them, but between the Government and the Rajah of Vizianagram, and it is desirable that it be set at rest at once and for ever. The Deputy Director has carefully gone over all the papers connected with the case, and has minutely inspected the ground. He is decidedly of opinion that the decision of the Committee passed in 1838 should be confirmed and at once carried out; that a line should be drawn, and boundary marks erected in a straight line continued from the mainland boundary punta south-east to the Godavary (marked K in the sketch); that all the lunka east of the line be included in the lands of Kota and all to the west be given over to Kottapilli.

An Agent of the Rajah of Vizianagram, Bupatiraz Venkatapatiraz, has been present during the inquiry, and he, on behalf of his employer expresses his concurrence in the proposed adjustment. The proposed settlement will be communicated to the Collector, that he may say whether there is any objection to it on behalf of the Government, and if he concurs the marks may be at once erected.

(Signed) R. E. MASTER,

Deputy Director of Revenue Settlement

30th January 1860.

(True Copy.)

(Signed) R. E. MASTER,

Deputy Director of Revenue Settlement.

(True Copy of a Copy.)

(Signed) A. PURVIS,

Collector.

The Board request that the Collector will forward a translation of the decision of Messrs. Mason and Knox, and state what boundaries, inland or on the river, they were appointed to settle, and whether their decision was confirmed by the Board.

2. The Board upon a *prima facie* view of the case, are not disposed to concur in Mr. Master's recommendation, being of opinion that a straight line across the river from the most easterly point of the Kotapally lands on the northern bank to the most easterly point on the south bank is the fairest and most natural boundary. This seems to be exactly what the Kota people claim. The prolongation of the line A B would run the Kotapally boundary far east of its lands on both sides of the river.

(True Copies and Extract.)

(Signed) J. D. SIM,
Secretary.

To A. Purvis, Esq., Collector of Godavery District.

8/17/67

Exd. J. Wright.

Board's Proceedings
to the Collector of the Godavery
District dated 29th May 1860.
No. 2578. regarding the dis-
pute between the two Villages
of Kota & Kotipalli in the
Kota Ramachendrapur
Taluk.

Rev^d 2050/61

Enclosure 1 in a letter
from the Secretary to the
Board of Revenue to the
Secretary to Govt. No. 20.
dated 15th August 1861.
No. 4453.

1861 September

No. 2,988

PROCEEDINGS OF THE BOARD OF REVENUE, dated 28th June 1860.

Read the following letter from H. NEWILL, Esq., Director of Revenue Settlement, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George; dated Madras, 25th June 1860, No. 657:—

My Deputy in the Godavery District having intimated that the Collector of that District had made a reference to the Board of Revenue on the subject of the Lunka dispute existing between the village of Kota in the Kota Ramachendrapur Taluk and that of Kotipalli belonging to the Vizianagaram Zemindar, I have the honor to request an early disposal of the matter, as the completion of the demarcation of the former village has been postponed until the decision of the Board is known on the subject referred to them. The demarcation and classification operations in the Godavery District will shortly be brought

Vide letter to Government, 23rd instant.
Copy sent to Board.

to a close, and the party engaged there will remove to another District. It is, therefore, very desirable that Kota should be completed before they leave.

The Collector of the Godavery District is requested to reply without delay to the Board's Proceedings, dated 29th May 1860, No. 2,578.

(A true Copy and Extract.)

(Signed) J. D. SIM,
Secretary.

To A. Purvis, Esq., Collector of Godavery District.

Copy to H. Newill, Esq., Director of Revenue Settlement.

Exd. J. Wright.

No. 3,331.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 21st July 1860.

Read the following letter from A. PURVIS, Esq., Collector of the Godavery District, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George; dated Cocanada, 11th July 1860, No. 101:—

I have the honor to acknowledge the receipt of the Board of Revenue of the 29th May last and to forward herewith translation of the decision passed by Messrs. Mason and Knox therein called for.

2. I cannot find on record any correspondence between the Collectors of the two Districts on the subject of deputing the gentlemen named to settle the disputes existing at the time between the two villages, but that they were authorised by their respective Collectors to investigate the matters at issue, and pass a decision upon them, does not admit of a doubt.

3. The subject does not appear to have been brought to the notice of the Board, or any instructions solicited from them on the occasion. As both villages formed at the time part of Zemindari Estates, Government were not then immediately interested in the matter.

ENCLOSURE No. 1.

ABSTRACT.—Translation of the decision passed by Messrs. Mason and Knox.

The Board question the validity of that part of the decision of Messrs. Knox and Mason, which decided the future ownership of lands not then in existence, and resolve to request the opinion of the Government Pleader on this point, and also on the probable effect which acquiescence in that decision may have on Government claims to similar islands formed in the bed of navigable rivers.

(A true Copy and Extract.)

(Signed) J. D. SIM,
Secretary.

To C. Dale, Esq., Government Pleader, with original Enclosure (to be returned).

Copy to A. Purvis, Esq., Collector of Godavery District.

„ H. Newill, Esq., Director of Revenue Settlement.

Exd. J. Wright.

1861. Depts.

Enclosure 2 in a letter
from the Secretary to the
Board of Revenue to the
Secy. to Govt. D. dated
15th August 1861. No. 4453.

Recd 2050/51

Board's Order to the
Director of Revenue to the
dated 28th June 1860. No. 298
regarding the dispute be-
tween the two villages of
Pota & Pota Jalli in a
Pota Ramachandra's
Shalya.

submit the case for the order
of Government.

Board's Order to the
Collector of the Godavery Dist.
dated 21st July 1860. No. 333.
Regarding the dispute between
the two Villages of Hata
& Hatahadi in the Hata
Panchayat District.

Rev 2050/61

Enclosure 3 in a letter
from the Secretary to the
B^d of Revenue to the Secy.
to Govt. No. 2. dated 15th
August 1861. No. 1453.

1861. September

No. 3,429.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 26th July 1860.

Read the following letter from C. DALE, Esq., Government Pleader, Sadr Adalat, to J. D. SIM,
Esq., Secretary to the Board of Revenue, Fort Saint George; dated Madras, 24th July 1860,
No. 111:—

I have the honor to acknowledge the receipt of the Proceedings of the Board of Revenue
of the date and number noted in the margin, and to report, for the
21st July 1860, No. 3,331. information of the Board, that I have perused the paper which accom-
panied, and that I am of opinion Messrs. Knox and Mason had no power to decide the future
ownership of lands not then in existence.

2. It is impossible to foresee what use might be made of an acquiescence on the part of
Government in that decision, should claims to similar islands formed in the bed of navigable rivers
hereafter arise. I, therefore, advise that Government should not acquiesce in the decision referred to.

3. I return the paper which accompanied the Proceedings noted above.

Resolved that the above letter be forwarded to the Collector of the Godavery District, who
will communicate with Mr. Newill on the subject, and suggest what appears to them the best
arrangement under the circumstances.

2. The Board would not object to recommend Government to leave the matter to arbitration,
the whole case being tried *de novo* independently of Messrs. Knox and Mason's decision. Failing
this arrangement the Collector will have the question fully investigated on the spot by a compe-
tent Officer.

(A true Copy and Extract.)

(Signed) J. D. SIM,
Secretary.

To A. Purvis, Esq., Collector of the Godavery District.

Exd, J. Wright.

If their letter, they resolved to
submit the case for the order
of Government.

IN CONS. 23RD JANUARY 1861, No. 433.
From A. PURVIS, Esq., Collector of the GODAVERY DISTRICT,
dated Cocanada, 16th January 1861, No. 4.

With reference to the Board's Proceedings of the 26th July last, No. 3,429, I have the honor to state that after some correspondence the Rajah of Vizianagram has consented to the settlement of the dispute, with regard to the Island therein alluded to by arbitration, the whole case being tried *de novo*, without reference to the so-called decision of Messrs. Knox and Mason.

2. Should this mode of settling the dispute be approved of by Government, I propose that one party should be nominated on behalf of Government and one by the Rajah, the two selecting a third as provided in Act XXVIII of 1860.

Exd. J. Tulloch.

1861. 20th Jan

Enclosure 4 is a letter from the Secretary to the B. of Revenue to the Secretary to Govt. B. D. dated 15th August 1861. No. 4453.

Rev. 2050/81

Board's Pro. to the Govt. Pleader, Judicial District dated 26th July 1860. No. 3429. Regarding the dispute between the two Villages of Pota & Pota Jalli in the Pota Rana Chandrajurt Taluk.

1. The first six paragraphs of this letter contain a summary of the case under consideration and the manner in which the Collector and Deputy Director of Revenue Settlement agreed in thinking that it should be settled. This, however, under the opinion expressed by the Government Pleader as stated in para 7 is apparently not advisable; and the Board therefore were in the first instance disposed to recommend a recourse to arbitration de novo (para 8) to which course, the opposite party viz. the Rajah of Vizianagram has no objection.

2. They hesitated however to make any decided recommendation of this nature on the consideration that more was involved than a simple boundary dispute. It became in fact a question whether in point of the law which governs navigable rivers, an island which gradually formed in the Godavary could belong to any one else but Govt.; and in consideration of certain opinions referred to in paragraph 9 of their letter, they resolved to submit the case for the order

1861. Dec 1st

Enclosure 5 in a letter from the Secretary to the Govt. of Revenue to the Secy. to Govt. G. O. dated 15th August 1861. No. 14453.

Rev. 2050/61

Letter from the Secy. of the Godavary District to the Secy. of Revenue dated 16th January 1861. No. 4 - regarding the dispute between the two Villages of Kota & Kota; - fully in the Kota Revenue; - Chaudhary's Village.

The previous cases to which reference is made by the Board as bearing on the subject both relate to islands of recent formation in the Godavary River.

3. In the first instance, ^{portion of} an island which was formed in 1836-7, and became cultivable two years afterwards was claimed by the proprietor of an adjacent chootah on the ground that it had once been in the enjoyment of the inhabitants of a village attached to his mosque and on an adverse decision made by the collector based on the facts that the portion in question had been not only all along in the enjoyment of the ryots of a certain Govt. village but was also within the limits ^{at a distance} formerly ^{with the consent} of the opposite party & the latter village, the proprietor aforesaid brought a suit against the collector in the Civil Court of Rajahmundry, but his claim

E. L. C. G. May
1855. No. 560.
R. D.

Board's Pro. 1 March
1858. No. 753.
recorded in E. L. C.
22 March 1858 -
No. 371.

was rejected "as he could not prove that the new formation was within the boundary of his village". The Sudder, however, on appeal reversed the original judgment affirming that "Plaintiff is entitled to whatever land has been formed in the bed of the river opposite his own shore". In reporting this circumstance the Board of Revenue took occasion to observe on the importance of the principle involved &

31 May 1859. No. 2032

From B. 10 June
1859. No. 2196

E. L. C. 17 June
1859. No. 802.

Board's Pro. recorded
in G. O. 16 January
1860. No. 77. R. D.

Mr Dale's letter
recorded in G. O.
25 Feb 1860 -
No. 296.

in this decision which had entirely set aside the hitherto supposed right of the State to the bed of river, but acting on the opinion of the Govt Pleader they did not recommend an appeal to the Privy Council from the decision of the Sudder because the real question of law not having been raised in the Civil Court could not be argued in the Privy Council: and the Govt having concided in this view the matter dropped.

4. In the second case a suit was brought against the Collector of the Godavery District by the proprietor of a village on the river Godavary claiming an island formed by accretion near his village, and which had been made over by the Collector in 1847 to a Government village as being within the limits of the latter. This case, in the Board's opinion, involved the same important principle referred to above; and the Govt Pleader ~~was~~ also considered that the suit should be defended because if settled on its merits "the question of increment arising in the bed of navigable rivers, when forming an addition to any pre-existing land" (as appeared to be the case in this instance) ~~will~~ "will be settled by an authoritative declaration which will in all probability prevent future litigation on that

"portion of the subject in the Presidency." The suit however was never tried on its merits having been dismissed under the statute of limitations. An appeal however has been preferred to the Sudder Court where it appears to be still pending.

5. In these two cases then, no satisfactory adjudication has been practicable: and it remains now for the Government to determine whether the present is a favorable one for settling the question at rest.

6. In 1850 an island appeared opposite to the two villages of Kota and Kotapalli situated on the same ^{of a branch} bank of the Godavery river and adjoining each other. Its ~~present~~ area is estimated at 440 acres one-fifth of which is at present cultivable. Regarding the right to cultivate this island there have from the first been disputes between the villages, and as one belongs to Government and the other to the Rajah of Vizianagaram the question of right differs somewhat from what we have seen. The case had both villages been Govt property. There can be no doubt about its recent formation: and there can be no difficulty arising from occupation because it has been hit and tented out to the highest bidder pending some decision as to the mode of its division.

G.O. 19 March 1861
No. 637.

G.O. 12 June 1861
No. 1189. a
1190.

Doe dem. Seckhri
and others
vs. E. I. Company
Page 267. Vol. VI
Hornet & Co.
Cases

E.I.C. 15 July 1857
No. 710

11
A division, it is true, has always been contemplated, and formed the subject of consideration 12 years before the island showed itself; but Mr Dale has recommended that acquiescence in an award which decided the future ownership of land not then in existence should not be allowed, as it might form an inconvenient precedent.

The Calcutta case alluded to in the last paragraph of the Board's Proceedings renders it sufficiently clear that the free soil of the bed of navigable rivers vest in the Crown and that new land gradually formed therein by the accumulation of deposit can only become the property of individuals when it is an accretion to the adjacent soil. (bank!)

8. It is to be noticed that in the case of certain newly formed islands in the Kistnah river, the Govt in 1857, before the present general question was raised, authorized the sale by auction to the highest bidder of certain newly formed islands in the Kistnah river. This mode of disposal was proposed by the collector because he found it impracticable to adjust contending claims.

in any way more generally
fair and satisfactory. In this
case the contending parties
were not the inhabitants of dif-
ferent villages, but of the village
in which the island showed
itself. The clear boundary
line laid down by Mr. Newell
in 1850-51 would preclude the
possibility of any doubt as to the
village in which it should be
included. The subject is noticed
because it shows that in the
Kistnah the village boundaries
are not limited to the banks
of the river but extend to the
centre of the stream. So in
the case of the Limkhah it
has led to the present refe-
rence from the Board, it
might have fallen entirely
within the Rajah of Vizian-
gram's limits, and yet be, under
the view now taken, the pro-
perty of Govt.

E. L. C. 21 January
1853. No. 78.
New Dep.

C. J. W.
22 Nov/51

Read the following letter from the Secy to the Do of Ruw.
Pro: of the Madras Govt.

No 584 *W. 584*

dated 15 March 1862
Read the following letter from the Secy to the Do of Ruw.
(Here enter 15 & ref / 61 & to 16453)

The govt. considers
it desirable that
Mr. Dale's opinion
should be taken
as to whether
~~under~~ the claims
of govt. under the
decision noted
in para 9 of the
Bt. pros. can
in this case be
up held - or whether
under all the
circumstances
it would be ad-
-visable to settle
the dispute by ar-
bitration - The govt.

W

Gray

W

30 10 5

From St. George
15. March 1862
St. George's Fort Madras
14 - Secy to Govt

are of opinion that
the right of the State
should be asserted, &
it can now be successfully
maintained. 18 Chief Secy

Revenue 1862 Dept^t
Pro: of Gov^t for March

18584.

Pro: of the Madras Gov^t
of March 1862.

18580

61.62

17-6-89

53-84

25.2.60

From the Gov^t: Standard W.
14 April 1862 C. 121098 in
1862-14-15.
Pro: of the Gov^t of Madras 4
16 April 1862 185807.

Having orders on
Board's letter submitting
correspondence relating to
a dispute as to the proper
division of an island
between the two villages
Hota and Hotohali
in Godavery District.

18266 + 267.

10-8-69 +
10-8-69 +