P.W.

~~Marine~~ (1897) Department.

G.O., No. 3989

DATED 3 May 1898

5137/99

[Despatch Abstract.]

Irrecoverable dues.

Sanctioning, with remark the proposal of the Chief Engineer for Irrigⁿ that the sum of Rs 1162-4-8 being the —— by some of the lessees of the Cauveri & Amravati paduguis be written off.

Jr 2nd/14

Jd 4/5

[M S. 1,000—28-10-96.]

BACK PAPERS.

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

FURTHER PAPERS.

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

IRRIGATION.
ACCOUNT.

Government {1899} of Madras.

PUBLIC WORKS.

Recd. } 1899. *Enclosures*

Regd. } *Spare copies*

G.O., No. 398 I., 3rd May 1899.

MAY.

Irrecoverable Dues

Sanctioning, with remark, the proposal of the Chief Engineer for Irrigation that the sum of Rs. 1,162-4-8, being the — by some of the lessees of the Cauveri and Amravathi padugais, be written off.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.
Account.

READ—the following papers:—

From the Superintending Engineer, IV Circle, dated 30th March 1899, No. 72 I.

No. 88 I.

Note by the Chief Engineer for Irrigation.

The Superintending Engineer, IV Circle, brings to notice that in 1891 certain padugais of the Cauveri and Amravathi rivers were leased out for a term of five years, the agreements executed for the purpose being in form No. 182-A, prescribed by the now obsolete Madras Public Works Department Code, which contained no instructions as to the necessity for stamping and registering such instruments.

2. In G.O., No. 2881 W., dated 7th October 1896, sanction was accorded to the Superintending Engineer's proposal to file a suit for the recovery of the arrears due by some of the lessees. The notices served thereupon by the Government Pleader, Erode, on the defaulting lessees having been disregarded by them, the papers were referred by the Executive Engineer, Coimbatore division, to the Government Solicitor, Madras, who is of the opinion that Government has no case at all which could be proved, the leases executed not having been stamped or registered.

3. In the circumstance reported sanction may be given to the irrecoverable balance of Rs. 1,162-4-8 being written off. The papers printed with G.O., No. 2881 W., dated 7th October 1896, show that there must have been very great slackness in the collection of rents. There was apparently no excuse for allowing arrears to accumulate as the form of lease reported to have been used stipulates that rents are to be paid monthly in advance and permits the lessor, in case of payments being a stated number of days in arrear, to re-enter on possession of the land. It may have been inexpedient to terminate any of the leases when the land was yeilding no produce, since the failure to stamp and register the leases left the Executive Engineers without power to recover any loss which might accrue from having to re-auction the land at an unfavourable time of the year, but at least serious accumulation of arrears might have been avoided. It seems necessary to impress on Executive Engineers their duty in regard to the punctual collection of rents.

4. It may be noted that to this office circular memo., No. 25 G., dated 11th September 1893, prescribing a form of lease to be used in leasing out padugai lands, the Government Solicitor's letter specifying the necessity for registering and stamping the leases has been appended for the information and guidance of Superintending Engineers. A case similar to the above is, therefore, not likely to occur in the future.

(Signed) W. HUGHES,
Chief Engineer for Irrigation.

18th April 1899.

ORDER—No. 398 I., dated 3rd May 1899.

Sanctioned.

2. The attention of Superintending and Executive Engineers is drawn to the Chief Engineer's remarks in paragraph 3 of the above note.

(True Extract.)

Under Secretary to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
" the Superintending Engineer, IV Circle.
" the Examiner, Public Works Accounts.
" other Superintending Engineers of Circles.

Exd. T. K. Narayana Aiyangar.

A

Ag.

PUBLIC WORKS DEPARTMENT, 3

IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

~~Not recommending for sanction~~
~~proposal to write off the irrecoverable~~
~~balance due from the lessees of certain~~
~~ranges of the Cauvery and Amaravathi rivers~~

UNDER date the

READ the following

From Supg Engr. II Circh. No. 729 dg 30 March 99.
10882 dg 18. 4-99.

Note by the Chief Engr for Irrigation.

10 97 rep. Cir

The Supg Engr. II Circh, brings to notice that in 1891 certain padugais of the Cauvery & Amaravathi rivers were leased out for a term of five years, the agreements executed for the purpose being in form No. 1824, prescribed by the now obsolete Madras P.W.D Code which contained no instructions as to the necessity for stamping & registering such instruments.

Issue 25.4.99 with I

2. In G.O. No. 2887 W.

× flagged. C.

ublic Works (1899) Department.

CURRENT No. R 176.9

3948

From A. H. Garrett Esq
Supg Engineer 4th Circle

Order

No. 72/9

Dated 30th March 1899

Received } 1st April 99.
Registered

Enclosures/

Spare copies.

SUBJECT.

Padugais of the Cauvery and Amravathi Rivers

Requests permission to write off Rs 1162-4-8 due by Lessees Karuppa Gownden and Ramasami Gownden on account of—

DE

Put up a spare form of lease agreements - also and opinion Circulars prescribing terms for leasing out padugais for cultivation &c

Pat up 10/4/99 ✓

8/4/1899

10/4/99

11/4/1899

E. I. Form No. 1 (a)—700—21-4-98.

BACK PAPERS.

No.	Date.
R3442	7-10-96
R25 W	16-1-96

FURTHER PAPERS.

No.	Date.

No. 478

Madras 22nd October 1898.

From,

Ernest Barclay

Government Solicitor

M A D R A S.

To,

The Executive Engineer

Coimbatore Division.

Sir,

I. I beg to acknowledge receipt of your letter of the 17th instant No.4596 with its enclosures.

2. Under Section 49 of the Registration Act, no document required by Section 17 of the Act, to be registered, shall affect any - immoveable property comprised therein or be received as evidence of any transaction affecting such property, unless it has been registered in accordance with the Act. Leases of immoveable property from year to year or for any term exceeding one year or reserving a yearly rent are amongst the documents required by Section 17 of the Act to be registered. The leases you have sent me purport to be leases of - immoveable property and are for terms of five years at yearly rents, so they clearly ought to have been registered.

3. Again, Section 34 of the Stamp Act 1879 provides that no instrument chargeable with duty shall be admitted in evidence for any - purpose by any person having, by law or consent of parties, authority to receive evidence or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such - instrument is duly stamped. A lease is one of the instruments - required by the Act to be stamped at the expense, under Section 29 of the Act, of the lessee. The leases you have sent me ought therefore to have been stamped.

4. It seems to me that, if suits were filed against Karuppa Gounden and Ramasawmy Gounden for recovery of what is alleged to be due by them to Government, such suits must be based upon the leases granted to those persons, as the claims against them are for balances of - rents said to be due by them under the leases; but, inasmuch as -

neither of these leases has been stamped or registered, they are not admissible in evidence and the suits must therefore fail.

5. With regard to the statement contained in your letter that Mr. Malet, the then Executive Engineer, came to an agreement with the Lessees in person in regard to their disputes and accounts and that written declarations were taken from them on ordinary paper, the substance being that they agreed to abide by the terms of the settlement and to pay the amounts due within 14 days of receipt from your office of statements of their liabilities, which were accordingly prepared and sent to them, I have looked in vain for any written statement by either Karuppen Gounden or Ramasawmy Gounden that they were prepared to pay any specific amount. There is, apparently, in Karuppen Goundens file of papers, a statement by him (No.13) that he agrees to be bound by the terms settled as regards the second and third (interlined) claims, but that the first claim has not been settled and that, except the claims referred to in that paper, he has no other claims to bring forward against Government in connection with the Cauvery Padagay leased to him, but that the settlement is subject to the approval of the Superintending Engineer and that, if the men, to whom Karuppen Gounden sublet his padagay, accept the offer made under Claim No.I, he is willing to accept it. This cannot be called anything like a final settlement.

6. In Ramasawmy Gounden's file there is a paper, No.17, in which he declares that all points of dispute have been considered at the interview and that he agrees to be bound by the terms settled and recorded in the paper, that except the claims referred to in the paper he has no other claims to bring forward against Government in connection with the Cauvery Padagay leased to him and that the settlement is subject to the approval of the Superintending Engineer. By this document (which like the declaration of Karuppen Gounden is not stamped and is not therefore admissible in evidence) Ramasawmy Gounden agreed to pay all sums due by him under the settlement within 14 days after the receipt of his account from the Executive Engineer. This document is a little more definite

than that taken from Karuppen Gounden and that is all I can say for it, it is far from being final.

7. In my opinion, it would be quite impossible to go into Court relying on these declarations (even if they were properly stamped) for recovery of the balances of rents due under the leases, without putting in the leases themselves as evidence and, for the reasons stated above, the leases could not be received in evidence.

8. In reply therefore to your enquiry as to whether, in my opinion, Government has a safe case against Karuppen Gounden or Ramasawmy Gounden for recovery of the balances of rent due by them respectively, I beg to say that I am of opinion that Government has no case at all which could be proved.

9. I return the files of papers sent me and

I have the honor to be

Sir

Your Obedient Servant

Ernest Bardon

Government Solicitor.

SUPG. ENGINEER'S OFFICE
No 164 dtd.
8-MAR.99
ANDRI
COIMBATORE

EXECUTIVE ENGINEER'S OFFICE
No. 6390/98
26 OCT. 1898
Encl.
COIMBATORE.

CHIEF ENGINEER
FOR IRRIGATION.
1-APR. 1899
No. 17 C.I

Ofc. I
3 encl 1/99

Copied
30/3/99

No. 72/9

Office of the Superintending Engineer,
FOURTH CIRCLE,
Coimbatore 30th March 1899.

From

A. H. Garrett Esquire
Superintending Engineer,
Fourth Circle, Coimbatore.

To

The Chief Engineer
for Irrigation

Enclosures. /

Sir,

I have the honour to inform you that in 1891 certain padugais of the Cauveri and Amaravathi rivers were rented to four individuals for a term of 5 years. The form of lease employed was the printed form No. 182. A, the employment of which is ordered in the Madras Code, though nothing is said regarding the necessity of having it stamped and registered.

2. In December 1895, Mr. de Winton who then had charge of the Coimbatore Division reported that the lessees were very backward in paying their rents which were much in arrears,

arrears, and drew attention to the fact that it would probably be difficult to recover them by legal process as the leases had not been registered.

3. In July 1896 Mr. Ashpitel who had succeeded Mr. Levinton submitted a statement showing that the amount due by the lessees was Rs 5444-3-10 and in G.O. No 2881. W of 7th October 1896 permission was given to file a suit against the lessees for the recovery of this amount.

4. Before taking this step endeavours were made by Mr. Malet who had succeeded to the charge of the Coimbatore Division to effect a compromise. A meeting was arranged and each lessee signed a paper binding himself to pay the balance of rent due as decided at the meeting within a certain time. Two of the lessees abided by these conditions and settled their accounts, but Karuppa gounden only paid Rs 200 out of Rs 1134-11-10, whilst Ramasawmy gounden paid nothing at all towards reducing the balance of rent due Rs 227-8-10.

5. In July 1897 therefore the Executive Engineer acting on the permission conveyed in G.O. No 2881. W of 7th October 1896 instructed the Government Pleader at Erode to institute legal proceedings for the recovery of the amount due, and notices were accordingly served on the parties on 26th January and 2nd February 1898. These notices were disregarded by the lessees and apparently no further action was taken, but I have no particulars of this abortive attempt to obtain legal redress.

6. The present Executive Engineer Mr. Burlton has been in correspondence with the Government Solicitor, Madras, and I suppose that in the face of the opinion herewith sent, it would be unwise to take the case into a law court, and if this view is accepted permission will have to be given to write off the sum of

of Rs 1162-4-8.

I have the honour to be,

Sir,

your most obedient servant.

Asst. Engineer.

Supdg. Engineer.

CHIEF ENGINEER
FOR IRRIGATION.
1-APR. 1899
No. R 17 C J

Ques: 2
3441/99

Public Works (1899) Department.

CURRENT No. 3441

M.E.D.
Please mark the paper "A" or "B"
WR 28/4.

A 1662 1/5/99

Order

From The Chief Engineer for Irrigation

No. 88 J.

Dated 18-4-99

Received 28-4-99

Registered 28-4-99

Enclosures 2

Spare copies.

SUBJECT.

Padregais of the Canvers and Amravathi Rivers - Note recommending for sanction the proposal to write off the irrecoverable balance due from the lessees operations —

Os/

BACK PAPERS.

No.	Date.

FURTHER PAPERS.

No.	Date.

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