M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Political DEPARTMENT.

G.O. No. 515 (59-60) Press Mis.

Dated 23 — 12 — 1862

Not to be folded or roughly handled.

POLITICAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from G. LEE MORRIS, Esq., Officiating Government Agent, Tanjore; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Vallam, 13th November 1862, No. 331.

I have the honor to submit for the consideration and orders of Government the accompanying petition addressed by Her Highness Kámákshiamba Bayisáhib to the Right Honorable the Governor in Council, in which she advances her claim to the Residency premises, and prays for a re-consideration of the order* in which the Government have directed the said premises to be appropriated to the Zillah Courts.

10th November 1862.

* Judicial Department, dated 23rd September 1862, No. 1,571.

2. On a reference to the records of the Rajah's Palace, it appears that the Residency with all the furniture and conveyances belonging thereto, as also the Bungalow, &c., at Chetubava were purchased by Rajah Sarbhoji in the year 1823, from the Resident General Blackburne, for the sum of Rupees 67,900. The records also show that the repairs of the Residency, as well as the Establishment attached thereto, were maintained at the expense of the Rajah till His late Highness' death and even subsequently; but there is nothing in these papers from which it can be inferred that the late Rajah at any time alienated the Residency in favor of the Government.

3. Under these circumstances, and with reference to the arguments advanced in the accompanying Memorial, it is for Government to decide whether the Residency is to be considered as falling within the scope of State property and treated as such, or not.

To the Right Honorable the Governor in Council,

&.c &c. &c.

The humble Petition of Her Highness KAMATCHI BOYEE SAHIBA.

Sheweth,

That your Petitioner has heard with much concern that your Government has ordered the dwelling house known at the Residency at Tanjore to be forthwith converted into a Court House, without any communication with your Petitioner as to her wishes or consent.

2. It is obvious that such order can only have issued upon the hypothesis that the dwelling house in question is *State* property, a proposition which in the face of the facts about to be submitted, she respectfully submits cannot be maintained, and at which she believes your Government must have arrived on imperfect or incorrect information.

3. The Rajah *purchased* the house in question from the late General Blackburne for the very considerable sum of 1,800 Rupees, which he paid out of the money which he was at liberty to deal with according to his will and pleasure. Whether he choose to let it lie in his Treasury, to convert it into Jewels, to invest it in the public funds, or to purchase a house with it, the property is essentially and exclusively private. It did not descend to him from former Rajahs before the execution of the Treaties; it was his own self acquired property.

4. There is therefore no pretence for asserting that in its *inception* this property partakes of the nature of State property.

5. As little is these for asserting that it has *since* became State property by any act of the Rajah.

6. If this house has been made a present of to the British Government, it must be either by some formal *Deed* executed by the Rajah; or by "*dedication*" in the legal sense, presumed in the absence of any Deed from adverse long user.

7. There is not, and never was, any Deed or other instrument of gift or transfer from the Rajah to the British Government and therefore the first hypothesis is conclusively negatived.

8. And though true it is, that the Rajah always permitted successive Residents to occupy the house in question, such occupation was purely *permissive*; and did not, and could not confer any legal title to the premises upon the British Government.

9. For all the Rajah's acts are conclusive to show that while he permitted the Resident for the time being to dwell in this house, this was only as a mark of respect to the British Government, and in furtherance of his own dignity; not as parting with his right, title and interest therein.

10. For the Rajah always kept the munements of title in his own possession.* He always paid for all repairs; he paid for the erection of the Racket Court in the compound; he paid the wages of the gardeners and all incidental expenses; all which facts appear in the Palace Accounts. He purchased the furniture, portion of which was sold after his death by the then Government Agent.

* They were sent for by the Resident after the Rajah's death.)

11. Your Petitioner observes that in Schedule F to the Government answer filed to her Bill in 1857, this house is described as "*appropriated*" to the Residents.

12. This word is very remarkable; and considering that the answer and Schedules were prepared by the Law Officers of the Government, the absence of any statement that the property in question had been *dedicated* by the Rajah to the British Government is very significative of the opinion of the legal advisers that the facts forthcoming in the matter would not admit any assertion of a *dedication.*

13. The fairest way of deciding this question would be to try it as if your Petitioner were suing in a Court of Law to eject the Secretary of State from the premises. If the facts which she could establish would give her a verdict then incontestably, she submits, the property must be private, and cannot be State.

14. Upon this point if necessary your Petitioner craves that the question, upon the facts, may be put to the Advocate General and the Solicitor of the Government.

15. A bed room is "appropriated" by the Landlord of an Inn to any guest who occupies it for the night, the week, or the month, and in this sense the Residency was no doubt "appropriated" by the Rajah to the use of the Resident at his Court. Unlike the Innkeeper the Rajah made no charge, for that would not have been consistent with his dignity, or his inclination. But the *continual* acts of ownership exercised by the Rajah over the premises from the date of its purchase till his death, the absence of any such acts on the part of the Government, who never paid a Rupee for maintenance or repairs—entirely, as your Petitioner submits, rebut the possibility of any presumption of any thing approaching *dedication* as well might the carriage and horses which the Rajah always kept for the use of the Resident be claimed as State property, on the ground of "appropriation."

16. The Duke of Norfolk and other great Landholders in London "appropriate" portions of their properties to roads for the public, but to avoid all inference of a *dedication* they put up bars and gates and notices. Just so, while permitting the Residents to occupy the house, the Rajah has always excluded all notion of giving up his title and property in it by such possession, by keeping the title deeds, and paying for repairs and maintenance.

17. Satisfied as your Petitioner is, that the Order under reference has been issued under a misconception of the facts, she will nevertheless be happy to meet the convenience of the Government as far as is in her power, after her title shall have been recognized; for she feels deeply grateful for the liberal measures which have been extended to her and the other members of her late husband's family.

She prays therefore that the Order in question may be stayed, and that your Excellency will be pleased to do her justice upon a full consideration of the facts now brought to your Excellency's notice.

And Your Petitioner shall ever pray, &c.

PALACE TANJORE,
1st November 1862.

ORDER THEREON, 23rd December 1862, No. 515.

With the foregoing letter the Acting Government Agent at Tanjore has submitted for the Orders of Government a Petition from Her Highness Kamatchi Boyee Sahiba, senior widow of the late Rajah of Tanjore, in which she prays that the order passed under date the 23rd September last appropriating the buildings known as the Tanjore Residency as Court Houses for the Zillah Judge and Principal Sudder Ameen, may be cancelled on the ground that the buildings in question were the self acquired property of the late Rajah.

2. The Acting Government Agent states that "on reference to the records of the Rajah's Palace, it appears that the Residency with all the furniture and conveyances belonging thereto, as also the Bungalow, &c., at Chetubava were purchased by Rajah Sarbhoji in the year 1823, from the Resident General Blackburne, for the sum of Rupees 67,900. The records also show that the repairs of the Residency, as well as the Establishment attached thereto, were maintained at the expense of the Rajah till His late Highness' death, and even subsequently; but there is nothing in these papers from which it can be inferred that the late Rajah at any time alienated the Residency in favor of the Government."

3. Under the circumstances stated by the Acting Agent, His Excellency the Governor in Council sees no reason to question the validity of the claim preferred by Her Highness Kamatchi Boyee Sahiba to the buildings in question. Her Highness, it is to be inferred from the concluding paragraph of her Petition, is willing to sell or rent the buildings to Government, and as there are no other buildings in Tanjore equally well adapted for the Courts, the Governor in Council directs that Mr. Morris will ascertain from Her Highness on what terms she is prepared to part with the buildings, and will submit a proposal for their purchase or rental at an early date.

(True Extract.)

Chief Secretary.

To the Acting Government Agent at Tanjore.

Exd. T. McMootry.

Political Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Ag: Govt: Agent Tanjore

(Here enter 13th Novr 1862 No

Order thereon 23d December 1862 No 5

With the foregoing letter the Ag: Govt: Agent at Tanjore has submitted for the Orders of Government a Petition from Her Highness Kamatchi Bai Saheba, Senior widow of the late Rajah of Tanjore, in which she prays that the order passed under date the 23d September last appropriating the buildings known as the Tanjore Residency

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Political 1862 Dec 4

No 5

Proceedings of the Madras Government

Dated 23 December 1862

Read the following letter from the Govt: Agent Tanjore

Also a petition from the Senior widow of the late Rajah of Tanjore praying that the buildings known as the Tanjore Residency may be restored to her

Ordered that Mr Clerk do prepare a draft reply to the Govt: Agent's letter

Ordered that Mr Clerk do prepare a draft reply to the petition

Ordered that the petition be forwarded to the Govt: Agent Tanjore for his report

Ordered that Mr Clerk do prepare a draft letter to the Govt: Agent Tanjore

Case but I have not thought it necessary & might be misconstrued in Low Quarters.

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as Court Houses for the Zillah Judge and Principal Sudder Amins may be cancelled on the ground that the buildings in question were the self acquired property of the late Rajah.

2. The Acting Govt. Agent states that "on reference to the records of the Rajah's Palace, it appears that the Residency with all the furniture and conveyances belonging thereto, as also the Bungalow &c at Chetambaram were purchased by Rajah Sarbhoji in the year 1823 from the Resident General Blackburne for the sum of Rupees 67900. The records also shew that the repairs of the Residency, as well as the Establishment attached thereto, were maintained at the expense of the Rajah till His late Highness' death, and even subsequently; but there is nothing in these papers from which it can be inferred

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The Petn says 18000 — so there a clerical error somewhere
Ffe

inferred that the late Rajah at any time alienated the Residency in favor of the Government."

3 Under the circumstances stated by the Acting Agent His Excellency the Governor in Council sees no reason to question the validity of the claim preferred by Her Highness Kamatchi Boyee Sahiba to the buildings in question. Her Highness, it is to be inferred from the concluding paragraph of her Petition is willing to sell or rent the buildings to Government, and as there are no other buildings in Tanjore equally well adapted for the Courts, the Governor in Council directs that Mr. Morris will ascertain from Her Highness on what terms she is prepared to part with the buildings, and will submit a proposal for their purchase or rental at an early date.

To the Actg. Govt. Agent at Tanjore } Decd 23d

Pol. Letter to Engd dd 12th Sept 1863
No 10 of 1863.

Replied to 16th March
No 4 of 1864.

57 v 60

Pol. 1862 Department.

No. 575

PROCEEDINGS OF GOVERNMENT,

Pol. 12 Nov 1862

Dated 23 Decr 62

Observing that His Excellency the Governor in Council sees no reasons to question the validity of the claim preferred by Her Highness Harhatchee Bayee Sahiba to the buildings known as the Tanjore Residency and directing Mr Morris to ascertain from Her Highness the terms upon which she will part with the buildings and to submit a proposal for their purchase or rental at an early date

Comm. on Pub. Accts

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№ 218

From Clement Dale Esquire The Receiver of the Carnatic Property
To The Honorable A J Arbuthnot Chief Secretary to Government

Madras 15th December 1862

Sir,

Para 1. With reference to the Order of Government

Order of Govt 21st July 1860 № 443. Political Department. On my letter to Government dated 12th July 1860 № 133 Printed Copy Enclosed

under the date and number noted in the margin. I have the honor to forward a Copy of Correspondence which has since passed between myself and the Accountant General.

2. It is to be deplored that the letter of the 19th March 1860 № 3002 should have been couched in the terms in which it is written, and that [redacted] investigation of the Accounts was not previously made. I feel fully convinced however that it was in error that the 3 Sums named by Mr Mangles were paid to me. In my letters dated the 29th April 1861 № 81 and 4th September 1861 № 142, I have pointed out the difficulties which might arise, and the disadvantage under which Government might be placed, consequent on the letters from the Accountant General should the Administration of the Nabobs Estate become a Subject of litigation under the provisions of Act № 30 of 1858. Having done this I feel it unnecessary to enter into the Subject in this Communication.

3. The whole of the Rupees 70380-7-, now desired to be Refunded, was paid by me to Government on

the 28th July 1800, having been included in a Sum of Rupees 19000 transmitted by me to the Sub Treasurer on that date, If therefore His Excellency the Governor in Council should be of opinion, that the former Sum should be refunded as required by the Accountant General, I have the honor to request that the Accountant-General may be ordered to repay me that Amount so paid by me to Government, when I will replace the same Amount to the Credit of Government with the Bank of Madras; No money actually will pass the transaction will Amount in fact to little more than book Entries, I shall in my books give the Estate of the Nabob Credit for that Amount as repaid to me by Government, at the same time Debiting the Estate with the same Amount as refunded by me to Government.

I think it right to mention that on the 2nd August 1801 I was with Mr Harrison on another business when he entered into the present question, and it was fully canvassed, after which he stated that he thought the best way would be to adjust the books by writing off the whole Rupees 123,613 – 12 –, and he decided to speak to the Chief Secretary (Mr Byerley) on his return to the Presidency. Mr Harrison however left Madras prior to Mr Byerley's return and on delivering over Charge to Mr Lushington he referred him (as I was informed) to my letter of the 4th September 1801 № 142, stating that the business would require his attention, but without expressing his own views on the subject.

I have the honor &c

Sir

Your most Obed Servant

Wm Wade

The Revd Wm C Pr

Pol 1862 Dept

From The Receiver of the Carnatic Property

To Chief Secretary to Government

Dated 15 December 1862

Rec'd 17th ——

No 569 No 218 Encl 3

(with enclosure)

Submits with certain observations a Copy of Correspondence that passed between himself & the Acting Sec'y in ref: to G.O No 4143. of 21st July last on the subject of Rs 123613-12 realized by the Dewan out of the Estates of the late Nabob of the Carnatic

Pol 21st July to 31 Dec 1862

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23/12/62