

Political (1897) Department.

ORDINARY MS.

G.O., No. 452

Dated 10. 7. 97

52  
13/7

[Despatch Abstract.]

Requesting the Resident in Havana to inform the Rev. & A. Noddy that the Govt declines to interfere on his behalf in the matter of a land dispute in which he considers the Spaniards have done him injustice.

J. M. M. 97

# BACK PAPERS.

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# Political (1897) Department.

CURRENT No. 800

From The Resident in Travancore and Cochin

H.L. the Gov.

Order W. 452 of 10 July '97

The petitioner should be informed by the Reside. that the Govt. declines to interfere

7.2.97

8/7/97

Result in T.C. (pro) with enclosure.

Dated  
Received  
Registered  
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Refusal No. 1706 of 97

SUBJECT.

Forwarding a Memorial addressed by Rev. Fr. Miderig against the orders of the Travancore Government in respect of certain lands held by him.

As The Resident's letter places the facts clearly before Govt and it is Subd. that his views are correct. The Govt. has a remedy in the Civil Court of Travancore and Cochin and the Govt. of that State of the Res. is. The Resident has his position and that of Govt. is the matter distinctly enough.

8/7/97

BACK PAPERS.

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FURTHER PAPERS.

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Coravilangat  
1st June 1897.

My

His Excellency Lord Havelock  
Governor of Madras

cc cc cc

The humble petition of Revd Mr. E. A. Nidiny  
counsellor to the Bishop of Changanashery and  
vicar of St. Mary's church, Coravilangad

Yetumanson, Kestayam  
in Travancore.

Most respectfully sheweth,

That the Dewan of Travancore has  
against law and justice ordered to auction some properties  
called Moavelli Varikanthadam and Paikad long  
enjoyed by the petitioner and to add their price to the govern-  
ment treasury. As the printed petition to the President dated  
the sixth January 1897, a copy of which is forwarded here-with,  
contains all the facts of the case and all the claims of your petition-  
er and the unjust and unlawful acts of the Dewan and his  
subordinates. Your petitioner do not repeat them here. Your petitioner  
applied to the acting President who kindly ordered the Dewan to  
stop the auction. But he without paying the slightest attention to  
it, went on with the proceedings for the auction, and the then Presi-  
dent Mr. Rees again ordered him to stop the auction which also  
he did not comply with. Then unfortunately Mr. Rees was relieved  
by the present President who without considering about the insult  
of the Dewan towards the British power by his disobedience to the  
directions of their representatives or about the justice of your petitioner's  
claim or about the unjust acts of the government, declined to

July  
1896

interfere and he does <sup>not</sup> assign any reason for doing so.

As the former Resident already interfered in the matter he could not reasonably and decently decline to interfere. The disobedience to the orders of the Resident is an insult to the British power. So the Resident ought to have interfered.

This is not a case between two subjects of the Maharaja but one against His Highness's government. As the latter is a party in the case it is a proper one for the decision of the British government. If our government oppresses anyone or seizes any property of any person or commit illegal and unjust acts against its subject, who is there, but the British power to screen us from such oppressions and unjust acts?

As we are a people owing allegiance <sup>though</sup> indirectly to Her Majesty the Queen whom merciful God has endowed with such a vast power, and as Her Majesty interferes to protect even others who owe no allegiance to the British power as in the case of the Armenians, we have a special claim upon the merciful protection of Her Majesty's government. Perhaps your Excellency may think that the British interference in this matter is unnecessary since we can go to civil courts. But in this state H. H. the Maharaja is guided by the Dewan and so all the civil functionaries are dependent upon him and hence no civil officer will dare to incur the displeasure of the Dewan in any case. Thus in a case where the Dewan is determined as it is in the present case, to seize a property, a poor subject can little expect any justice from the civil courts of this state.

The late notorious case of Jagannath Row and Gopal Dyer will show the sort of justice administered in our courts.

When the Dewan is just and good we may expect justice

in the courts as he is neutral there. But in the present case as the Dewan is obstinate to justify his evil acts, very little can be expected from civil courts. In all countries the injustice of the governments towards their subjects are checked and corrected by the natural way of internal insurrections and wars. As such a natural way of corrections is hindered by the British protection, the British government is bound to see whether the protected governments behave justly. Further when a person is protected by another it is the duty of the protector to see that the protected does not do any unjust acts. Otherwise the protector is liable before God as abettor of all the unjust acts which the protected does. By this reason also the British government is obliged to check and correct all unjust acts of our government. If the British government does not interfere in such matters, the blessing of God in bringing down such noble minded, kind and generous people as the British are to India becomes useless to us. This is not the only case of such unjust acts of our government. There are hundreds of similar cases which are not brought before Your Excellency on account of fear or inability of the oppressed.

I therefore beg that your Excellency will kindly give order to cancel the auction and all its after proceedings conducted against the directions of the British Resident and not to deprive me of my long enjoyed properties and to punish all the officers who acted against law and justice in this case. For which act of justice and benevolence the petitioner as in duty bound shall ever pray.

Your Excellency's most obedient and humble  
servant H. B. A. Nidiry

Referece No. 1706 of 97

Resident's Office  
Trivandrum, 23<sup>rd</sup> June 1897

From

F. A. Nicholson Esquire

Ag. Resident in Travancore and Cochin

To

The Chief Secretary to Government

Colacaminid

Sir,

I have the honor to forward herewith for the orders of Government an Appeal from the Revd Father Sidney objecting to my refusal to interfere in a land dispute in which he considers the Travancore Government to have done him injustice.

2. He claims to be in possession of certain land which has been auctioned as though waste land at the disposal of the Sarkar. The facts are briefly as follows: the appellant originally claimed the land as Jenmi by purchase from a certain Kamburi Brahmin; the Sarkar however claimed that the vendor had no title to the land and consequently that the vendee, appellant, was equally without title; the appellant then waived his Jenmi claim (about 6 years ago) and requested that it might be registered in his name as a Putthual or Sarkar land under unregistered occupation. Meanwhile another person came forward claiming the registry of the land in his name and there was a Magisterial Case between the parties; the Dewan Peishkar after enquiring on the Revenue side ordered the land

be sold by auction apparently because he was unable to satisfy himself as to the claims of either party.

3. Against this order both parties appealed to the Dewan who heard them both: the parties were represented by High Court Vakils and the Dewan states that in those appeals neither party disputed the fact of the land being Puthuval: in fact the ground of each claim was that the claimant was in possession of the land as Puthuval occupant and each claimed registry as against the other. The Dewan passed orders (D) dated 4<sup>th</sup> July 1896 repeating both appeals and confirming the order of the Dewan Peishkar.

4. The present appellant then put in a review petition (A) 8<sup>th</sup> July and subsequently a further petition (B) dated 22<sup>nd</sup> July in which he threatened a civil suit if the decision were not reconsidered. In neither of these petitions did he ever suggest that the lands were other than Puthuval: in fact the petitions treated the lands as such. In petition C dated 23<sup>rd</sup> July he asks permission at once to file a civil suit without the usual notice.

5. Failing in his applications to the Dewan he addressed various petitions from July to November 1896 to Mr. Thomson and Mr. Rees and in them he opens the question his Jemmi right and requested that the Dewan might be desired to stop the auction of the lands pending appellants' filing a civil suit; it was alleged that the sale of the lands was governed by Regulation II of M. E 1040 (adjudication of claims to waste land) and that under that

Page 16 of Four:  
were appealed  
regulations  
marked with tape

Regulation no auction can proceed (Section 3 & 5) if an objection to a sale has been rejected by the Dewan, until the claimant has had an opportunity of going to a civil suit. The Dewan was asked about the case and it was suggested to him in July and October that it would be well to postpone the auction pending the correspondence. Apparently the two properties were, however, sold, but from his long printed petition dated 6<sup>th</sup> January it seems that the sale of four was not finally affected. Hence as far as four out of the six lands are concerned Appellant has no grievance as to actual auction unless they have since been sold. I do not even know whether the sales of the other two properties have been completed.

6. In the correspondence between the late Mr. Resident and the Dewan the latter contends that Regulation II of 1040 is not applicable to these Puthuvals, that the Regulation only applies to the sale of forest lands and must be read with the Rules of the same date (24<sup>th</sup> April 1865) which clearly state that they refer only to Forest lands, and as Dewan and Revenue Officer he declares not only that this is so, but that in the whole 32 years no Puthuval case has ever been dealt with under the Regulation: he points to the regular Puthuval Rules and claims that the Salmat can deal with its own unregistered lands as it pleases. He objected therefore to be bound by the provisions of Regulation II of 1040 but was quite willing that Appellant should go to a civil court for compensation or damages if he so pleased.

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Para 16.

On page 128  
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tape.

He also pointed out that if the case did not fall under Regulation II of 1040, the stoppage of the sale merely because Appellant threatened a civil suit would be inadvisable.

7. I have mentioned the above details merely to give Government an idea of the nature of the case and not to provide material for decision. For it appeared to me, when the case came before me, that it was not one for the Resident's interference, as Mr. Rees says, "it is not one of public importance," and I do not conceive that the Resident should take the position of an Appellate Court in matters of dispute between Subject and the Sikar, when there is any other remedy. If the Resident is to be the Appellate Authority in the thousand and one <sup>matters</sup> ~~disputes~~ in which Revenue Officers deal with ryots, he will not merely be overwhelmed with cases, but will be placing himself in <sup>a</sup> position to the Dewan similar to that occupied by the Board of Revenue to the Collectors in Madras, and I do not consider that to be his duty. In the present case there is a double contention, (1) that the Dewan has disregarded the Regulation of 1040, (2) that the land is not a Pullural but Jami. Both of these contentions are properly adjudicable by the Civil Courts either under the Special Regulation or under the Regular Law; in fact it is the Regular Law which will decide whether the land is Jami or Pullural and whether the Sikar is liable to pay damages for alleged wrongful acts under the Regulation. I, therefore, in January last,

Sent Appellant an endorsement declining to interfere in the matter.

8. Appellant has now addressed to ~~the~~ Government the present appeal which reached me on the 16th June, some four months after my endorsement reached him; during all this time he might have gone to a Civil Court, but he prefers to go to Government. Professing originally a strong desire to file a suit and demanding the stoppage of a claim pending such suit, it does not appear that he has yet filed a suit, though the Dewan dismissed his appeal last July; and he now, in his Appeal petition to Government, brings forward the new argument that he distrusts the Civil Courts, and suggests that they are dominated by fear of the Dewan.

9. Under the above circumstances I am unable to recommend any more favourable end than a reference to Appellant to seek the aid of the Civil Courts if he has a grievance.

I am the honor to be  
Sir

Your most obedient servant

F. A. Nicholson.

Cy. Resident

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READ AGAIN G.O., No.  
 189

DATED

CURRENT No.

ENCLOSURES TO C. No

ORDER OF GOVERNMENT

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LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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