

Public Works (1890) Department.

RAILWAY BRANCH.

G.O., No. 73 Ry.

DATED 16th January

[Despatch Abstract.]

Plantation at the old Railway Station at Beypore.

The action of the Collector of Malabar in having
purchased the right of clearing the—, approved.

Transferred to the
Revenue Dept. with reference
to endorsement in that
dept. No. 5315 of 17 August
1889 hereinth returned
9/19/11 (Sd) C. J. Smith Col. R.E.
H. Secy. to Govt P.W.D.
By: Branch

Referring for remarks
Vols. of the Bd of Rev: No. 480
of 13-7-89 requesting Govt.
to approve Collector's action
in purchasing from party who
contracted with Ry Co for
removal of trees from
abandoned railway terminus
at Beypore, his right as regards
trees still unfelled by him,
& referring, for order question
as to right of Co to value
of trees &

Reminder No. 1.
Reminder No. 2.
Reminder No. 3.
Reminder No. 4.

REVENUE DEPARTMENT.

No. 197 R.

OFFICIAL MEMORANDUM.

The undersigned has the honor to request ^{the favor of} an
early reply to { Memo. } No. 5315, dated 17 August
 { Order }

1889, calling for remarks in regard to question
as to right of Railway Company to value of
trees on abandoned railway land at Bayport.

A. A. Miant

Under Secretary.

OCTOBER 11, 1889.
Fort Saint George }
8th November 1889.

To
The Consulting Engineer for Railways
thru the Public Works Department.

CHB

13TH DECEMBER 1889, No. 988, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—again the following G.O., dated 17th August 1889, Mis. No. 5315, Revenue:—

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 13th July 1889, No. 480:—

W. S. WHITESIDE, Esq.

Read—the following letter from H. M. WINTERBOTHAM, Esq., Collector of Malabar, to the Secretary to the Commissioners of Land Revenue, dated Calicut, 2nd February 1889, No. 242-P:—

I have the honor to forward herewith copy of a letter (dated 23rd January 1889, No. A.) addressed by me to the Agent and Manager of the Madras Railway, on the subject of the destruction of the plantation at the abandoned Beypore terminus, and a copy of that gentleman's reply, dated 28th January 1889, No. 726.

2. The plantation in question is several acres in extent and consists of casuarina, mango, tamarind, gold-mohur, almond, guava, cashew and many other useful and ornamental trees. The company has sold the right to clear this plantation, root and branch, to a contractor for Rs. 415.

3. I was absent on leave when the company called for tenders by advertisement in the District Gazette, and knew nothing of the matter till January 23rd when, on passing the place, I found a gang of coolies engaged in cutting down the trees.

4. The land is no longer required by the company and must shortly be surrendered to Government. If Government were bankrupt and compelled to realize, the woeful waste involved in this wholesale destruction might be viewed in silence; but as things stand, I can see positively no justification for it. The Chief Engineer's fear that the plantation would in a short time be destroyed by the neighbouring villagers is quite groundless. There is a police-station within 100 yards of the plantation: there are no private houses near it, and I have ample means of protecting the trees from injury. The statement of "one of the local staff" that the garden was to be handed over to the fishermen as a site for a new village, is also quite without any foundation.

5. I need not prolong this letter by proving that it is utterly wasteful to cut down young casuarina and other saplings, which in a few years will become large timber-trees secure of a market close at hand. The plantation, to yield its just value, should be treated in the recognized way. Mature timber should be thinned out, and in place thereof the saplings should be allowed to grow up.

6. Two or three acres had already been cleared, and as the work of destruction was rapidly progressing, I was obliged, in order to stop it, to make the best terms with the contractor that I could. I have paid him Rs. 350 in full satisfaction of all claims, whether against Government or against the company, and I beg that my action may be approved. The remaining portion of the plantation represents a much larger value than the above figure. I could at once recover more than half the amount by felling mature timber only.

7. I have only further to submit to the Board and Government the question whether the company are at all entitled to the value of the trees. When the land forming the railway premises at Beypore was acquired by Government it was partly covered with cocoanut palms, and a large number of these are still standing. The public revenue due on these palms was remitted when the land was handed over to the company (on the assumption that it would be necessary to fell the trees) and the company have since for 30 years been enjoying (free of all assessment) the produce of

No 5272C of 13-11-89

C

No. 5367C of 18 Nov 1889

Lodged with

Lodged with

reference to No. 5272C

dated 13-11-1889

dated 13-11-1889

dated 13-11-1889

No. 5367C of 18-11-89

Recd: 13.11.89

15/11

No. 5367C of 18-11-89

2-6/11

one

the many palms which were not felled. On equitable grounds, therefore, I do not think the company could show that they have any claim to receive the value of the plantation. I do not want to press the point if Government are content to pay the amount.

8. I imagine the Forest Department would gladly take the plantation, but I advise that it be left for the present under the control of the Collector. It offers a convenient and salubrious site for a military cholera-camp in case of necessity. I can lease out the fruit annually with a condition that the lessee shall act as care-taker.

ENCLOSURE No. 1.

From H. M. WINTERBOTHAM, Esq., Collector of Malabar, to the Agent and Manager, Madras Railway, dated Beypore, 23rd January 1889, No. A.

I have the honor to address you on the subject of the gardens at the abandoned terminus at Beypore.

I find to-day a number of men busily engaged in felling the trees, both large and small, root and branch, converting a beautiful plantation into a waste. I understand that the right to clear the land has been sold by the company for something over Rs. 400.

I have possibly not much ground for remonstrance so far as regards timber trees of a marketable size, but many of the trees, especially casuarinas, are promising young saplings, too small to be used for anything but fire-wood, and not worth one anna a piece for that.

I am afraid to say what amount of cost and trouble each of these saplings represents. Many of them that are being ruthlessly felled are not much thicker than a man's arm.

2. I feel certain that, on mere grounds of public economy, Government must disapprove this destruction. Against any ordinary Malabar lessee it would give the proprietor (if done against his wish) a cause of action for waste. I am not sure at this moment as to the special terms on which the land was granted to the company by Government, but I am sure that if the company, on surrendering the land, are entitled to the value of the timber upon it, Government would be in a position to allow more than the company could possibly get by selling the right to clear the land forthwith. It would be almost as justifiable to cut down the numerous coconut palms before restoring the land to Government as to cut down promising young saplings which are not fit for the market.

3. The place has been selected as a fit site for a cholera-camp in case the detachment at Calicut require one, and for this reason also the destruction of ornamental shade-giving trees, which have little pecuniary value as timber, is to be greatly deprecated.

4. It is not yet too late to save the greater part of the plantation. This probably need involve no loss to the company, and certainly will be attended with profit to the State; and as I cannot think that the company are acting within their rights in destroying immature timber on Government land which they are about to surrender, I trust you will put a stop to the felling until the wishes of Government in the matter can be ascertained.

ENCLOSURE No. 2.

From F. B. HANNA, Esq., Agent and Manager, Madras Railway, to the Collector of Malabar, dated Madras, 28th January 1889, No. 726.

With reference to your letter No. A., dated 23rd instant, as to the railway gardens at Beypore which are being abandoned by the company, I have the honor to quote the following extract from a letter which the Chief Engineer has addressed to me on the subject:—

"I have to state that the sale of the trees in the garden at Beypore was decided on the spot during last inspection after full discussion, the Consulting Engineer to Government being present. It was then thought that as soon as our staff was removed from Beypore the garden and trees being unprotected would in a short time be destroyed by the neighbouring villagers, and it was also then stated by one of the local staff that the garden was to be handed over to the fishermen as a site for a new village. The sale of the trees was then advertised over local papers and in the *Malabar Gazette* (see *Malabar Gazette* for October 1888) and the tender of the highest bidder, one Thachamblath Sawmy, accepted. I may say that all the officers of the company who knew the locality were anxious that this garden should not be destroyed, but we saw no means of saving it. It was laid out by Mr. Wilkinson, our Resident Engineer on the 4th Division, many years ago and grew up under his care. I fear we can do nothing to help the Collector, and I can only suggest that he should purchase all the smaller trees from the contractor with whom he could, I think, easily come to terms."

It will be seen, therefore, that the final decision which the company's officers reluctantly arrived at with the consent of the Consulting Engineer for Railways was thoroughly advertised

before the trees were sold, and it is to be regretted that the matter did not come under your notice.

Your letter No. 174, of the 26th instant, has just reached me, and in reply thereto, I beg to state that, with an assurance from you that the money will be refunded to the company, I shall be prepared to authorize payment of the amount now claimed by the contractor (Rs. 350) on behalf of Government.

Reference on the above, dated 23rd March 1889.

The Collector is requested to report whether he can inform the Board on what terms the land were originally made over to the Railway Company and under what class it was placed.

With regard to the Collector's proposal to retain the management of the land in his own hands, the Board consider it would be best that the land should be handed over to the Forest Department. The Collector will of course then obtain full control over the land, and its use as a cholera-camp, if necessary, can be permitted by him. It will be anomalous that the plantation should not be under the control of the Collector in the Forest Branch of his office. The Collector should obtain and forward a sketch-map of the plantation and state its exact area.

(Signed) M. HAMMICK,
Secretary.

To the Collector of Malabar.

Read—the following letter from H. M. WINTERBOTHAM, Esq., Collector of Malabar, to the Secretary to the Commissioners of Land Revenue, dated Calicut, 31st May 1889, No. 1634-P. :—

With reference to Board's Reference, dated 23rd March 1889, on General Register No. 348 of 1889, I have the honor to state that the land was A class land, as defined in Standing Order No. 13. I have not seen the contract between the company and Government, and only know that the land was made over to the company free of charge.

2. I enclose a sketch of the garden. The entire area is 11.24 acres. The portion cleared by the contractor when I stopped him measures 3.86 acres.

Resolution—dated 13th July 1889, No. 480.

The papers will be submitted to Government with the request that the action of the Collector, as reported in paragraph 6 of his letter, dated 2nd February 1889, No. 242-P., may be approved and orders passed on the question raised in paragraph 7 thereof, regarding the right of the Railway Company to the value of the plantation. The Board are unable to say from information in their office whether the company is entitled to compensation for the trees standing on the land. As the plantation was formed by the company, the Board consider that they are probably in equity entitled to some compensation.

(True Copies and Extract.)
(Signed) M. HAMMICK,
Secretary.

To the Secretary to Government, Revenue Department,
with sketch in G.R. No. 1753 of 1889, to be returned.

Copy to the Collector of Malabar.

Order—dated 17th August 1889, Mis. No. 5315, Revenue.

Referred to the Consulting Engineer for Railways for favor of remarks.

(True Extract.)
(Signed) C. A. GALTON,
Secretary to Government.

To the Consulting Engineer for Railways, with sketch to be returned,
through the Public Works Department (Railway Branch).

READ—also the following papers:—

From Colonel K. A. JOPP, R.E., for Consulting Engineer for Railways, to the Agent and Manager, Madras Railway, dated Madras, 23rd October 1889, No. 882:—

I have the honor to request the favor of a copy of the Collector of Malabar, No. 174, dated 26th January, to your address to enable me to understand a question regarding the purchase of certain trees at Beypore which has been referred to me by Government.

2. Am I right in inferring that the company having obtained by sale a certain sum (Rs. 415) as full value for the trees will make no further claim for compensation and will not enforce the condition regarding the removal of the trees by the purchaser if the Collector of Malabar becomes owner of them by private arrangements with the original purchaser.

3. The fourth paragraph of your No. 726, dated 28th January, is obscure without a reference to the Collector's letter.

From F. B. HANNA, Esq., Agent and Manager, Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 30th October 1889, No. 6129/1207.

In compliance with the request contained in your letter No. 882 of the 22nd instant, I have the honor to forward herewith a copy of letter No. 174, dated the 26th January last, addressed to me by the Collector of Malabar on the subject of the sale of certain trees at Beypore.

2. With regard to paragraph 2 of your letter under reply, I beg to state that the company will not prefer any further claim for compensation nor enforce the condition regarding the removal of the trees if Government, to whom the land is to be finally handed over, decide to retain them.

ENCLOSURE.

From H. M. WINTERBOTHAM, Esq., Collector of Malabar, to the Agent and Manager, Madras Railway, dated Calicut, 26th January 1889, No. 174-P.

In continuation of my letter, dated 23rd instant, No. A, I have the honor to state that the contractor, who purchased the right to clear the Beypore garden, has to-day agreed before me to give up the contract and to make no claim against Government or the Company, on being paid back Rs. 350 out of the Rs. 415 paid by him, with leave to cut four of the old banyan trees on the road leading from the station-compound to the Chalam bazaar.

2. As in my opinion it was urgently desirable to stop further felling immediately, I was obliged to make the best terms I could with the contractors. If, as against Government, I was approved what I have done and will pay the Rs. 350. Pending the decision of Government, the matter, I shall be much obliged if you will pay back the Rs. 350 to the contractor, and request that you will let me know whether you have any objection to do so.

3. The four banyan trees which I have allowed the contractor to fell are old avenue trees which have passed their prime and which can well be spared.

No. 438.

Submitted to Government with reference to endorsement No. 5315 (herewith returned), dated 17th August.

2. The Madras Railway Company have obtained by sale the full value of the trees upon the land, and make no claim to further compensation.

3. The Collector appears to have paid to the purchaser the sum of Rs. 350 in full satisfaction of all claims to the trees not yet cut down, and there seems no reason why the action of the Collector should not be sanctioned by Government.

(Signed) K. A. JOPP, Col., R.E.,
for Consulting Engineer for Railways.

No. 5272-C.

Transferred to the Revenue Department with reference to endorsement in that Department, No. 5315, dated 17th August 1889, herewith returned.

(Signed) C. J. SMITH, Col., R.E.,
Joint Secy. to Govt., P.W.D.,
Railway Branch.

ORDER—dated 13th December 1889, No. 988, Revenue.

Miscellaneous.

The Collector's action is approved as recommended by the Board.

(True Extract.)

Ag. Secretary to Government.

To the Commissioners of Land Revenue, with sketch.

Copy to the Accountant-General.

" " Public Works Department (Railway Branch). ✓

Exd. J. Moses.

60 Copies.

Govt. of (1889) Madras.
REVENUE.

177C No 108
Govt. of Madras
B No 73 R of 16 Jan'y/90.
10 Jan

*Communicated to
the Consulting Engineer for
Railways for information*

C.S.S.
8.1.90
R.

Issued

Recd.

Encl.

G.O., 13th December 1889, No. 988.

B No 73 R of 16 Jan'y/90.

DECEMBER.

Plantation at the old Railway
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The action of the Collector of Malabar in
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Railway Company, approved.

3 copies to R. office 27/1
The Comptroller for Rys
" Exor. Genl. Pz. Accts.
27/1
2 copies to 007
Am. 9-1-90 R. 10-1-90

Govt. of {1889} Madras.

REVENUE.

B.

No. 73 R, of 16th January 1890.

Count^y to the Cong: Engr:
for Railways for information.
(sd) C. J. S.

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" Engr: Gato: Ry: acct: S.

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Ag. Secretary to Government.

To the Commissioners of Land Revenue, with sketch.

Copy to the Accountant-General.

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Exd. J. Moses.

35 Copies.

13TH DECEMBER 1889, No. 988, REVENUE.

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READ—again the following G.O., dated 17th August 1889, Mis. No. 5315, Revenue:—

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2. The plantation in question is several acres in extent and consists of casuarina, mango, tamarind, gold-mohur, almond, guava, cashew and many other useful and ornamental trees. The company has sold the right to clear this plantation, root and branch, to a contractor for Rs. 415.

3. I was absent on leave when the company called for tenders by advertisement in the District Gazette, and knew nothing of the matter till January 23rd when, on passing the place, I found a gang of coolies engaged in cutting down the trees.

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With reference to your letter No. A., dated 23rd instant, as to the railway gardens at Beypore which are being abandoned by the company, I have the honor to quote the following extract from a letter which the Chief Engineer has addressed to me on the subject:—

"I have to state that the sale of the trees in the garden at Beypore was decided on the spot during last inspection after full discussion, the Consulting Engineer to Government being present. It was then thought that as soon as our staff was removed from Beypore the garden and trees being unprotected would in a short time be destroyed by the neighbouring villagers, and it was also then stated by one of the local staff that the garden was to be handed over to the fishermen as a site for a new village. The sale of the trees was then advertised in the local papers and in the *Malabar Gazette* (see *Malabar Gazette* for October 1888) and the tender of the highest bidder, one Thachambalath Sawmy, accepted. I may say that all the officers of the company who knew the locality were anxious that this garden should not be destroyed, but we saw no means of saving it. It was laid out by Mr. Wilkinson, our Resident Engineer on the 4th Division, many years ago and grew up under his care. I fear we can do nothing to help the Collector, and I can only suggest that he should purchase all the smaller trees from the contractor with whom he could, I think, easily come to terms."

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Reference on the above, dated 23rd March 1889.

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2. I enclose a sketch of the garden. The entire area is 11.24 acres. The portion cleared by the contractor when I stopped him measures 3.86 acres.

Resolution—dated 13th July 1889, No. 480.

The papers will be submitted to Government with the request that the action of the Collector, as reported in paragraph 6 of his letter, dated 2nd February 1889, No. 242-P., may be approved and orders passed on the question raised in paragraph 7 thereof, regarding the right of the Railway Company to the value of the plantation. The Board are unable to say from information in their office whether the company is entitled to compensation for the trees standing on the land. As the plantation was formed by the company, the Board consider that they are probably in equity entitled to some compensation.

(True Copies and Extract.)
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Secretary.

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Copy to the Collector of Malabar.

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3. The fourth paragraph of your No. 726, dated 28th January, is obscure without a reference to the Collector's letter.

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ENCLOSURE.

From H. M. WINTERBOTHAM, Esq., Collector of Malabar, to the Agent and Manager, Madras Railway, dated Calicut, 26th January 1889, No. 174-P.

In continuation of my letter, dated 23rd instant, No. A, I have the honor to state that the contractor, who purchased the right to clear the Beypore garden, has to-day agreed before me to give up the contract and to make no claim against Government or the Company, on being paid back Rs. 350 out of the Rs. 415 paid by him, with leave to cut four of the old banyan trees on the road leading from the station-compound to the Chalam bazaar.

2. As in my opinion it was urgently desirable to stop further felling immediately, I was obliged to make the best terms I could with the contractors. If, as against Government, the Railway Company are entitled to the value of the trees, I feel confident that Government, the approve what I have done and will pay the Rs. 350. Pending the decision of Government will the matter, I shall be much obliged if you will pay back the Rs. 350 to the contractor, and request that you will let me know whether you have any objection to do so.

3. The four banyan trees which I have allowed the contractor to fell are old avenue trees which have passed their prime and which can well be spared.

No. 438.

Submitted to Government with reference to endorsement No. 5315 (herewith returned), dated 17th August.

2. The Madras Railway Company have obtained by sale the full value of the trees upon the land, and make no claim to further compensation.

3. The Collector appears to have paid to the purchaser the sum of Rs. 350 in full satisfaction of all claims to the trees not yet cut down, and there seems no reason why the action of the Collector should not be sanctioned by Government.

(Signed) K. A. JOPP, Col., R.E.,
for Consulting Engineer for Railways.