Revenue Department

Minutes of Consultations

1st Dec 1857

Pack Nos 21 & 22

Govt No 1225/26 Nov 1857

பரத்தாப்பு பிரிவு — 1. 1/07
சப்பணிபவர் பெயர்
சப்பணிவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள். 7/07
சப்பணிட்டு முடித்த நாள் 8/07
சரிபார்க்கும் தல் மு: நி. பா. எ. கையொப்பம்
சரிபார்க்கும் மே. நி. பா. எ. கையொப்பம்
தீர்மானிக்கும் உதவியாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 1st December 1857.

No. 21. Read the following Extract from the Proceedings of the Board of Revenue; dated 14th November 1857, No. 3946.

Read letter from the Collector of Tinnevelly dated 6th November 1857.

(Here enter No. 345.)

1. From the Collector's letter and its enclosures the Board gather that the following are the leading features of the case submitted for their consideration, but they must remark that Mr. Silver's letter is so obscurely worded, that they can only account for it by supposing it to be a translation of a vernacular draft prepared by some native subordinate.

2. On the 29th April 1794, Etbarkhan the then ruler of the district granted a cowle for 20 seed cottahs of waste land for reclamation to one Anjoomoollah Saib on Paltom or favorable assessment.

N. B.—It is not clear whether the word "only refer to the term "cowle" or the abstract accounts.

3. At the survey in Fusly 1211, A. D. 1801-2, the land was measured and found to be S. C. 36-1-3 and was entered as "cowle only in the abstract Pymaish Oloogoo accounts."

4. Of the total extent of S. C. 36-1-3, a portion S. C. 24-12-5⅝ was brought under cultivation, and the difference between the full and Paltom assessment paid since the original grantee's death to his widow and daughter "who are to enjoy the same only during their life time." The remainder of the land, viz. S. C. 11-9-5⅝ was waste at the time of survey, and was subsequently cultivated by certain ryots on puttahs from the Collector, and the full assessment realized on behalf of Government.

5. The widow and daughter of the original grantee claimed these lands also as part of their "cowle" in 1834, and in 1848 reported that they had transferred their "cowle" to one Valamusthan in consideration of an annual allowance from him.

6. The Sub-Collector, to whom the petitions to the above effect were presented, rejected both, declaring the lands to be Government property and the "cowle" to be inalienable.

7. In 1849 Valamusthan brought a suit (No. 64) against the widow and daughter and the ryots in possession of the S. C. 11-9-5⅝ above referred to.

8. Neither the plaint nor the decree are forwarded, and the Board therefore are ignorant of the grounds on which the P. S. Ameen admitted the suit, or decided that the whole extent of land should be made over to the Plaintiff Valamasthan. The Board are also ignorant whether the widow and daughter were made Defendants in consequence of their repudiating the agreement, or merely pro formâ.

9. The Collector was not made a party to the Suit, but on the 30th June 1855 the ryots occupying the portion already referred to, represented to the then Collector the position in which they were placed by the Decree; viz. having to pay assessment to Government and the decree holder, and requested either that steps might be taken to reverse the decree, or that they might be relieved of their payments to Government.

10. This petition was referred to the then Head Sheristadar, and in consequence of his death was unfortunately overlooked, until an application was made to the present Collector by the Court to know whether Government had any claim on the property attached for the realization of the decree.

NOTE.—*It is not stated whose or what this property was.*

11. In consequence apparently of this application, a motion was presented to the P. S. Ameen through the Government vakeel protesting against the decision.

N. B.—It is not stated whether this step was reported to the Board or not.

12. The Principal Sudr Ameen took no notice of the motion, and a similar one was then addressed to the Zillah Judge, who endorsed it to the effect that Government ought to have been made a party to the Suit, and that the ryots above referred to should represent their position to the Principal Sudr Ameen, in view to his making an application to the Sudr Court for permission to reinvestigate the case with the Collector admitted as one of the defendants.

13. The ryots are stated to have followed this course, and the Principal Sudr Ameen to have applied to the Sudr Court for their permission to retry the case as suggested by the Zillah Judge.

14. Meanwhile, however, the ryots already mentioned have instituted a Suit No. 11 of 1857 against the Collector and Valamusthan the holder of the decree in Suit No. 64.

* *A*

15. The Collector proposes a draft answer to Suit No. 11 of 1857, but does not state when it must be filed. The Board do not entirely approve of it, and submit a draft herewith* to be filed if Plaintiffs will not consent to withdraw on a formal assurance that the loss consequent on the decree in Suit No. 64 shall not fall on them. The Board think it very likely that the Plaintiffs will assent to this course, and if they do not, it seems unnecessary to enter into any particulars of the case on this occasion.

16. With regard to the other suit, the Board think it necessary to indicate how the points on which information will be necessary when the preparation of a defence must be undertaken.

1. The lands are said to be held on "Cowle". The Board presume this term is used as synonymous with "grant" or "sunnud."

2. The grant is said to be for life only and inalienable. It should be stated when and by whom this was declared.

3. It should be explained why seed Cottahs 24-12-5½ have been left in possession of the Enamdars when the grant only gave seed Cottahs 20.

4. A copy of the grant and entries in the accounts should be forwarded.

5. The Collector should state whether the statute of limitations bars Plaintiff's claim.

17. In the event of the Sudr Court refusing to permit a review of judgment, the above information should still be afforded, in order that it may be considered whether the excess land should not be resumed at once, whether the transfer of the life interest enjoyed in the remainder by the heirs of the original grantee involves forfeiture of the grant, or what steps should be taken to assert the rights of Government. The relationship of Valamusthan to the females above referred to should also be mentioned.

C. O. V. 2, p. 39 *Note* 1

18. The Board submit for the consideration of Government the advisability of forwarding the Collector's letter and enclosures to the Government Pleader, that he may support the application to the Sudr Udalut for review of judgment if necessary.

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 22. ORDER THEREON, No. 1225; dated 26th November 1857.

The Right Honorable the Governor in Council approves the instructions which the Board of Revenue propose to issue to the Collector of Tinnevelly for the defence of suit No. 11 of 1857 on the file of the Principal Sudder Ameen's Court at that place. If the plaintiffs persist in prosecuting the suit notwithstanding the assurance to indemnify them from loss which the Board propose to give them, the suit can be defended, in the first instance, at the public cost, and it will be determined when a copy of the decree is furnished, whether the costs, if any be adjudged against the Collector, shall be borne by that officer or by the Government.

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1225

Fort Saint George, Revenue Consultation of 1st *December* 1857.

2. Resolved that the papers now before Government be referred to the Government Pleader, with reference to the last para. of the Board's Proceedings above recorded. The Government doubt if that officer can appear before the Court of Sudder Udalut in the matter of the review alluded to, as it appears to have been applied for at the instance of the ryots, and the Government were no party to the application. Mr. Dale will however use his discretion.

3. The Board have very properly pointed out the imperfect manner in which Mr. Silver has submitted the present papers to them, and his omission to specify the date on which the answer should be filed.

(Signed) H. FORBES,
Acting Secretary to Government.

Wanted 3/

Revenue Department.

Extract from the No. 3946 4/1225

Extract from the Proceedings of the Board of Revenue
dated 11th November 1857. R. & O. No.

Read letter from the Col-
lector of Tinnevelly dated 6th November 1857.

(Here enter No. 3145)

From the Collector's letter and the
enclosures the Board gather that the following
are the leading features of the case submitted
for their consideration but they must remark
that the Collector's letter is so obscurely worded that
they can only account for it by supposing
it to be a translation of a vernacular draft
prepared by some native subordinate.

2. On the 29th April 1794 Ethar Khan
the then Ruler of the District granted a
cowle for 20 Seed Cottahs of waste land for
reclamation to one Anjavoollah Saib on
Pattom or favorable assessment.

3. At the Survey in Fasly 1211 (A.D. 1801/2) the land
was measured and found to be S. C. 36-1-3
and was entered as "Cowle only in the Abstract
Pycaish Aboogoo Accounts."

4. Of the total extent of S. C. 36-1-3,

a

N.B. It is not clear whether the word "only" refers to the term "Cowle" or the Abstract Pycaish accounts.

a portion S.L. 24, 12 - 5 5/8 was brought under
Cultivation and the difference between the full
and Pattom Assessment paid since the original
grantees death to his widow and daughter
who are to enjoy the same only during their life
time. The remainder of the land viz. S.L.
11 - 9 - 5 3/8 was rocky at the time of Survey
and was subsequently Cultivated by Certain
Ryots on pattah from the Collector, and
the full Assessment realized on behalf of
Government.

5. The Widow and daughter of the
original grantee claimed these lands also as
part of their "Coole" in 1834, and in 1845
repeated that they had transferred their "Coole"
to one Valamuthan in Consideration of an Annual
Allowance from him

6 The Sub Collector, to whom the
Petitions to the above effect were presented
rejected both, declaring the lands to be
Government property and the "Coole" to be
irredeemable.

7 In 1849 Valamuthan brought a
suit (No 64) against the widow and daughter
and the Ryots in possession of the S.L.
and the Ryots in possession of the S.L.
11 - 9 - 5 3/8 above referred to.

Neither

5/1225

8 Neither the Plaint nor the decree
are forwarded and the Board therefore
are ignorant of the grounds on which the
Principal Ameen admitted the suit or decided
that the whole extent of Land should
be made over to the Plaintiff Valamuthan.
The Board are also ignorant whether the
widow and daughter were made Defendants
in Consequence of their repudiating the
agreement or merely pro formâ.

9 The Collector was not made a
party to the Suit but on the 30th June
1855 the Ryots occupying the portion already
before, represented to the then Collector
the position in which they were placed
by the Decree viz. having to pay Assessment
to Government and the decree holders
and requested either that steps might
be taken to reverse the Decree or that
they might be relieved of their payments
to Government.

10. This Petition was referred to the
then Head Shereistadar and in Consequence
of his death was unfortunately overlooked,
until an application was made to the
present Collector by the Court to
know

know whether Government had any claim on the property attached for the realization of the decree.

Note. It is not stated whose or what this property was

11. In consequence of the above application a Motion was presented to the Pr. S. Amin through the Government Vakeel protesting against the decision.

N.B. It is not stated whether this step was reported to the Bd or not.

12. The Principal Sudr Amin took no notice of the motion and a similar one was then addressed to the Zillah Judge who endorsed it to the effect that Government ought to have been made a party to the Suit, and that the Ryots above referred to should represent their position to the Principal Sudr Amin in order to his instituting an application to the Sudr Court for permission to reinvestigate the case with the Collector admitted as one of the Defendants.

13. The Ryots are stated to have followed this course and the Principal Sudr Amin to have applied to the Sudr Court for their permission to retry the case as suggested by the Zillah Judge.

14. Meanwhile however the Ryots already mentioned have instituted a Suit

6
1225

Suit No. 11 of 1857 against the Collector and Valamuthan the holder of the decree in Suit No. 61.

15 The Collector proposes a draft answer to suit No. 11 of 1857 - but does not state what it would be. The Board do not entirely approve of it and submit a draft herewith to be filed if Plaintiffs will not consent to withdraw on a formal assurance that the top consequent on the decree in Suit No. 61 shall not fall on them. The Board think it very likely that the Plaintiffs will consent to this course and if they do not it seems unnecessary to enter into any particulars of the case on this occasion.

16. With regard to the other Suit the Board think it necessary to indicate the points on which information will be necessary when the preparation of a defence comes to be undertaken.

1 The lands are said to be held on "Cowle" - The Board presume this term is used as synonymous with "grant" or "summud".

2. The grant is said to be for life only

only and inalienable. It should be
stated when and by whom this was declared.
3. It should be explained why said Collectors
24-12-55 have been left in possession
of the Encumbered when the grant only
gave said Collectors 20—
4. A Copy of the grant and
entries in the accounts should be forwarded.
5. The Colr should state whether the Statutes of Limitations
bars Plaintiffs claim.
17 In the event of the Such Court
proceeding to grant a review of Judgment
the above information should still be
furnished and that of the
Undersigned should not
decide whether the excess land should not
be resumed at once whether the transfer
of the life Interest enjoyed in the
Remainder by the heirs of the original
grantee involves forfeiture of the
grant or that steps should be taken
to assert the rights of Government. The
relationship of Valamuthum to the
Grantee above referred to should also be
mentioned.
18 The Board submit for the
consideration of Government the advisa-
bility of forwarding the Collectors
letter

C.O.C
2 1 39
note 1.

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1225

letter and enclosures to the Government
Pleader that he may support the
application to the Such Madras for re-
view of Judgment if necessary C

A True Extract

J. D'Cruz

Acting Secretary C

Pro

H. Forbes Esq.

Acting Secretary to Government

C

Revenue Department.

D'Cruz

R. D.

8/1225

N° 1225

Extract from the Minutes of Consultation

Under date the 26th November 1857

Read the following

Extract from the Proceed-

ings of the Board of

Revenue

Thereunto 14th Nov 1857 p. N° 3946

The Right Ho-

norable the Governor

in Council approves the

instructions which the

Board of Revenue pro-

pose to give to the Col-

lector of Tinnevelly

for the defence of suit

N° 11 of 1857 on the file

of the Principal Sudder

Ameen's Court at that

place - If the Plaintiffs

Clemency Petn
Rejd 26 Nov 1857
to Comm. Jud. & Rev.

N° 1382

Extract from the
Proceedings of the
Board of Revenue
Dated 14th
Nov 16th 1857.
& Read Sent to Govt Fort St George
N° 3946

N° 1225 dated 26th Nov

Submitting a Letter
from the Collr of Tinnevelly
with Copy of an Answer
to be filed in Suit No 11
of 1857 and requesting that
Instructions may be given to
the Collr as to the Defence
of the Suit

N° 1221.

26 Nov 1857

persist in prosecuting the suit notwithstanding the assurance to indemnify them from any loss which the Board propose to give them, the suit can be defended, in the first instance, at the public cost, and it will be determined whether the costs, if any be adjudged against the Collector, shall be borne by that Officer or by the Govt.

2. Resolved that the papers now before Govt. be referred to the Govt. Pleaders with reference

Explained to Rt Hon. D. Macleod 24-11-87

9
1225

reference to the last para of the Board's Proceedings above recorded. The Govt. does not see any reason why if that Officer can appear before the Court of Sudder Adawlut in the matter of the review alluded to as it appears to have been applied for at the instance of the Revenue authorities, and the Govt. were no party to the application. Mr Dale will however use his discretion ~~in the matter and if he thinks it right to appear he will do so~~.

3. The Board have very properly pointed out

the imperfect manner
in which Mr. Silver
has submitted the pre-
sent papers to them and
his omission to specify
the date on which the
answer should be filed.

Copies to the Bd of Rev. Dist. 27th
" to the Gov. & Secretary of
State & Treas.

Revenue 1857 Dept.
Dy. to Cons: 1st Dec.

10/1225

No. 1225.

Extract Mins: of Cons:
Dated 26th Nov. /57.

Approving the instructions which the Board of Revenue propose to issue to the Collector of Tinnevelly for the defence of Suit No. 11 of 1857 on the file of the Principal Sudr ameen's Court at that place.

No. 21. 422.