(1)

Revenue Department

Minutes of Consultations

1st Dec 1857

Backs 27 & 28

Order no 1228 D/26th Nov 1857

(7) [illegible]

பரத்தகாப்பு பாரவு - 1.

செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள்.

செப்பனிட்டு முடித்த நாள்

சரிபார்க்கும் முதல் மு: நி. பா. எ. கையொப்பம்

சரிபார்க்கும் உ: நி. பா. எ. கையொப்பம்

தாசில்தார் உதவியாளர் கையொப்பம்

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

No. 27. Read the following Extract from the Proceedings of the Board of Revenue; dated 18th November 1857, No. 4025.

In Cons. 18th November 1857.

Read letter from the Acting Collector of Masulipatam dated 7th November 1857.

(Here enter No. 204.)

Resolved that the above letter be submitted for the consideration and orders of Government.

2. The Zemindary of Nededavole having become burdened with debts to an extent which rendered extrication hopeless, was under the orders of the Honorable Court sold and purchased on behalf of Government, a portion of it was then "sub-divided" assessed and made over to the principal creditor, the Zemindar of Noozeed, in satisfaction of all his claims. There still remained 4 claims against the late Zemindary of Nededavole, aggregating Rupees 1,34,542, one of these was satisfied by the permanent cession of certain villages separately assessed, another that of the Zemindar's adoptive mother by the transfer of a village for the claimant's life, the Zemindar paying the Peshcush and the two others by leases of villages, the burden of paying the Peshcush in these cases also devolving on the Zemindar.

H. C. despatch 24th August 1842, No. 27, para. 36. E. M. C. 6th December 1842, No. 1445. R. D.

3. One of the creditors whose claim was thus met was Brijee Mohundoss Plaintiff in the suit now reported by Mr. Knox.

4. This person it seems had instituted two suits (No. 29 of 1832 and 4 of 1836) in the Northern Provincial Court against the Zemindar, who filed a Razeenamah under which Rupees 76,438 were said to be due to the former. This sum was reduced by a payment of Rupees 5,025 and a remission of Rupees 11,913 to a sum of Rupees 59,500, in satisfaction of which he agreed to receive a 10 years' lease of the village of Wondrajaveram calculated to produce Rupees 6,000 per annum. The Zemindar was to pay the Peshcush and the leasee was to pay him at the close of the lease the excess of 500 (6000 × 10 = 60,000 − 59,500) over his claim. In the agreement between the Zemindar and Brijee Mohundoss it was stipulated, that if the estate was attached for a whole year the lessee should pay the Peshcush of the village, but that all such years should not be included in the terms of his lease, and that if the estate should be attached for portions of a year the Zemindar should pay the Peshcush. It was also stipulated that the lessee should have no claim to arrears due by the ryots previous to his lease, but should collect such has subsequently accrued.

From Collector 18th in Cons. 30th November 1843.
Enclosures No. 2.

5. These arrangements were reported to Government and approved with the proviso that it should be "distinctly understood and explained to the parties concerned, that the Sub-division of that portion of the estate which is to be restored to Rajah Narriah Appah Row will be held answerable for the Peshcush which may be apportioned on it, in event of the Zemindar failing to pay the Government demand, notwithstanding the temporary assignments to his private creditors.

To Govt. 4th January 1844, No. 9.
From do. 16th in Con. 29th Feby. 1844 No. 144 R. D.
Hon'ble Court Despatch 7th March 1845 No. 2.
In from Govt. 14th in Con. 28th August 1845, No. 815, R. D.

6. Arrears of public revenue having accrued, the estate was again sold and reverted to Government in Fusly 1261, and with it the village of Woondrajaveeram, which Brijee Mohundoss had held for 7 years having however himself to pay the peshcush in one of them.

7. Mohundoss prayed Government to continue the village to him for the unexpired portion of his lease, or to pay him its estimated proceeds for the four years; viz. Rs. 24,000 with Rs. 1,550 arrears due by the ryots. The claim however was rejected by Government, and this decision was approved by the Honorable Court.

From Commr. to Government 16th October 1854.
From Govt. 14th Novr. 1854-1479 R. D. in N. C. Dy. Con 23d November.
Hon'ble Court Despatch 19 of 1856 6th Augt. 1856, P. 23.
In F. Govt. 3d November in Con. 3d Decr. 1856 No. 169 R. D.

8. Mohundoss in No. 3 of 1857 filed a suit against the late Zemindar in the Civil Court of Masulipatam for the balance due, and by order of the Court the Collector has been included as a supplemental Defendant.

9. Mr. Knox urges that this order is illegal, Government neither being concerned in the matter nor originally omitted from the list of Defendants from ignorance or inadvertence, and that from the inability of the 1st Defendant to pay the costs of Government this expense will fall on them.

10. The Board presume that there can be little doubt of the issue, as the terms on which Government accorded its sanction sufficiently protect it. There seems to be no official record of the communication of the Government order to Plaintiff, but on the other hand he no where pleads that Government in any way guaranteed the payment of his debt. In fact, he has been treated with great liberality as Government might have retained the estate in the first instance and left him to sue the insolvent proprietor.

11. The only point regarding which prima facie a doubt may be entertained, is the arrear due to Mohundoss by the ryots of the village. The Acting Collector does not notice this though it appears in the plaint. The Board are not aware whether the balances were put up to sale with the estate, or subsequently given up by the proprietor and written off by Government, whether either of these courses would entail any liability on Government as the arrears accrued during Mohundoss' tenancy, is a legal question on which Mr. Dale's opinion seems necessary.

2,841 From Government 6th in Consultation 22d December 1842.
165 Proceeding to Masulipatam 12th July 1843.
3,100 From Masulipatam 18th in Consultation 30th November 1843 with 9 Enclosures.
56 To Government 4th January 1844.
447 From Government 16th in Consultation 29th February 1844.
2,040 From Masulipatam 7th in Consultation 15th August 1844 with 2 Enclosures.
1,761 To Government 15th August 1844.
2,130 From Government 14th July in Consultation 28th August 1845.
657 To Masulipatam 5th (N. C. Consultation) 5th October 1854.
136 } To Government 16th (In N. C. Consultation) 16th October 1854.
731 }
1,201 From Masulipatam 20th in N. C. Consultation 30th October 1854.
1,308 From Government 14th in N. C. Dy. Consultation 23d November.
1,893 From Masulipatam 14th in N. C. Consultation 21st December 1854.
883 Proceeding to Masulipatam 21st in N. C. Consultation 21st December 1854.
4,500 From Government 3d November in Board's Consultation 23d December 1856.
1 Enclosure.

12. The Board recommend that the case be referred to the Government Pleader for his advice as to the course to be followed on behalf of Government. The correspondence connected with the case is herewith forwarded for reference.

13. The Board observe that Mr. Knox has omitted to mention the period within which an answer must be filed. This information and that noticed in para. 11, will be afforded immediately.

(A true Extract.)

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

No. 28. ORDER THEREON, No. 1228; dated 26th November 1857.

Ordered that the foregoing Proceedings together with its enclosures be forwarded to the Government Pleader for his opinion.

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

Revenue Department

3/1228

No. 4025

Extract from the Proceedings of the Board of Revenue, dated 18th November 1857

Read letter from the Acting Collector of Masulipatam dated 7th November 1857.

(Here date No. 204)

Resolved that the above letter be submitted for the consideration and orders of Government.

2. The Zemindary of Nuzvede becoming burdened with debts to an extent which rendered extinction hopeless, was under the orders of the Honorable Court sold and purchased on behalf of Government. A portion of it was then set divided & assigned as security to the principal creditor, the Devastanam of Tirupati, in satisfaction of all his claims. But still remained to claims against the late Zemindary of Nuzvede aggregating Rs 18,456-2. One of these was satisfied by the permanent cession of certain villages separately assessed, another that of the Devastanam was also met by the transfer of a village for the

H. C. despatched 26th Nov 1857 No. 24 from 26 Dec. Rec'd 6th Jan 1858 RQ

Claimants

claims to life; the Zemindar paying the peshcush and the two others by leases of villages; the burden of paying the Peshcush in these cases also devolving on the Zemindar.—

3. One of the creditors whose claim was thus met was Brijee Mohundoss Plaintiff in the suit now reported by Mr Inverarity. This person it seems had instituted two suits (No 29 of 1832 and 6 of 1836) in the Northern Provincial Court against the Zemindar for a pecuniary nature under which he obtained Rupees 10,000 and 6,000 respectively. This sum was reduced by former payment of Rupees 8035 and a promissory note of Rupees 11913 to a sum of Rupees 39,500 in anticipation of which he agreed to receive a 10 years lease of the Village of Wunthapuram calculated to produce Rupees 6000 per annum. The Zemindar was to pay the Peshcush and the lessee was to pay him at the close of the lease the sum of 600 (6000 × 10 = 60000 - 39,500) over his claim. In the agreement between the Zemindar and Brijee Mohundoss it was stipulated that

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From Coll. 18th and 30th Nov 1843. Encl. No. 2.

that if the Estate was attached for a whole year the lessee should pay the Peshcush of the village but that all such years should not be included in the terms of his lease, and that if the Estate should be attached for portions of a year the Zemindar should pay the Peshcush. It was also stipulated that the lessee should have no claim to arrears due by the ryots previous to his lease but should collect such as subsequently accrued.

To Govt 4th Dec 1844 No. Transd 16th with Cy 27 Feby 1845 No 46 R.D. Transd 1845. No 2 In F. Cons 11th Jul Cy 28 May 1845 No 814 R.D.

5. These arrangements were reported to Government and approved with the proviso that it should be "distinctly understood and explained to the parties concerned that the subdivision of that portion of the Estate which is to be restored to Rajah Narrinah Appah Row will be held answerable for the Peshcush which may be apportioned on it, in event of the Zemindar failing to pay the Government demand, notwithstanding the temporary assignments to his private creditors."

6. Arrears of public Revenue having accrued the Estate was again sold and perverted to Government on July 1841.

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and with it the Village of Moondragiaroor,
of which Raja Mohundass had held for 5 years
having however himself to pay the peshcush
in one of them.

Mohundass prays Government to
7 continue the village to him for the unex-
pired portion of his lease or to pay him
the estimated proceeds for the four years, Viz.
Rupees 24,000 with Rupees 1550 arrears due by
the ryots. The claim however was rejected
by Government and this decision was approved
by the Honorable Court.

8. Mohundass in No 3 of 1837 Adda v Smith
against the late Commissariat in the Civil Court
of Vizagapatam for the balance due, and
by order of the Court the Collector has been
included as a Supplemental Defendant.

9 Mr Knox urges that this order is
illegal, Government neither being concerned in the
Contract nor originally omitted from the list
of Defendants from ignorance or inadvertance,
and that from the inability of the Pt Defendants
to pay the costs of Government this expense
will fall on them.

The Board presume that there
can

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From Court to Privy 16th Dec 1852
P. Council 10th March 1852 - 11 Jurist
In Privy Council 23 March
H.C. Reports 10 of 1856. 6 Moo P.C.
pages 23.
In P. Council 5th March in C 23
Dec 1856 Moo 6 P.C.

5
1228

can be little doubt of the case as the terms
on which Government accorded its sanction
sufficiently protect it. There seems to be no
official record of the communication of the
Government order to Plaintiff but on the other
hand he no where pleads that Government
in any way guaranteed the payment of this
debt. In fact he has been treated with great
liberality as Government might have retained
the Estate in the first instance and left him
to sue the insolvent Proprietor.

11 The only point regarding which prima
facie a doubt may be entertained is the
arrear due to Mohundass by the ryots of
the Village. The acting Collector does not
notice this though it appears in the Plaint.
The Board are not aware whether the balances
were put up to sale with the Estate or subse-
quently given up by the Proprietor and whether
off by Government whether either of these
courses would entail any liability on Government
as the arrear accrued during Mohundass'
tenancy, is a legal question on which the
Cole's opinion seems necessary.

12. The Board recommend that

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the case be referred to the Government Pleader for his advice as to the course to be pursued on behalf of Government. The correspondence connected with the case is herewith forwarded for reference.

25451 ₹ Govt 6 in Cons 23d Oct 1862
165 Rs to Masulipatam 12th Janry 1843
3100 ₹ Masulipatam 18th in Cons 30th Nov/43 with 9 Encl.
56 To Govt 1st January 1844.
447 ₹ Govt 16th in Cons 29th Feby "
2040 ₹ Masulipatam 7th in Cons 15th Augt " with 2 Encls
1761 To Govt 15th August "
2130 ₹ Govt 14 July in Cons 25th Augt 1845
657 To Masulipatam 5th M.C Cons 5th Oct 1854
136 To Govt 16th in M C Cons 16th Oct 1854
731
1201 ₹ Masulipatam 20th In M C Cons 30th Oct "
1308 ₹ Govt 14th in M C Sy Cons 23d Nov
1393 ₹ Masulipatam 14th In M C Cs 27th Oct "
383 Rs to Masulipatam 20th In M C Cons 27th Oct "
4500 ₹ Govt 3d Nov in 13th Cons 23d Dec 1856.
1 Encl

13. The Board observe that Mr Knox has omitted to mention the period within which an answer must be filed. This information and that noticed in para 11. will be afforded immediately

(A true Extract)

Acting Secretary

To
H Forbes Esq
Acting Secy to Govt
Rev Department

Revenue 1837 Dep.t
Dir.r to Com.rs for Dep.t

№ 1404

Extract from the
Proceedings of the
Board of Revenue

Date 18th
Rec.d 20th } November 1837
29 Encls.

№ 4025

Ex. Dr 8th Dec.r 67 6.8.1502 Lieut.
15th

Submitting with the
Boards remarks, correspondence
relative to the construction of a
Sea Craft of Mr Jennison (see Let.r of 1837) in the Bd
Court of Examination by one
Roger Richardson against the
late Foundation of Rodelanda
and the Debtor Acts; & recommending that the case be
referred for the opinion of
the Commissioners Plenipo.y

We are order.d
Fra.s Baring
Geo. Grey
C. Wood

№ 1228

Ordered that the
foregoing Proceedings together
with its enclosures be for-
warded to the Commissioners
Plenipotentiary for their opinion.

Fort St. Geo.
26th Nov.r 1837

2 Copies to the Com.rs Plenipo.y
with 29 Encls

From Gov.t & Council 27th
Feby 38 № 303 in C
28th March 38
From Board of Rev.e 3d
July 37 (№ 1231 in Com.l
Dep.t July № 264 V 85)

№ 27 V 28

20 Nov.r 824

1228/0