II

Revenue Department

E.M.C. dated 6th February 1857

Book No. 12-13

Order No. 111 dated 29th Jan. 1857

(4 Sheets)

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர் : [illegible]

செப்பனிடுவதற்காக
எடுத்துக்கொள்ளப்பட்ட நாள் [illegible]/2006

செப்பனிட்டு முடித்த நாள் [illegible]/2006

சரிபார்க்கும் முதல் மு.நி.பா.எ. கையொப்பம்

சரிபார்க்கும் 2ம். நி.பா.எ. கையொப்பம்

ஆராய்ச்சி உதவியாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 6th February 1857.

No. 12. Read the following *Extract from the Proceedings of the Board of Revenue; dated 17th January* 1857, *No.* 194.

Read the following letter from the Collector of South Arcot dated 14th January 1857,*

**In Consultation 17th January* 1857.

(Here enter No. 7.)

Ordered that the foregoing letter be submitted for the consideration and orders of the Right Honorable the Governor in Council.

2. The question asked by the Collector is, whether it is imperative under Act XXIII. of 1856, to distrain personal property previous to proceeding to the attachment of land.

3. From the letter from the Chief Secretary to Government to the Member for Madras, paras. 5 and 7, it was evidently the intention to frame an enactment empowering the Collector to attach and sell *either* the *personal property or land* of the defaulter as might be deemed the readiest mode of recovering the arrear; and the original draft sent up by this Government would seem to have been so worded as to secure this object. In Committee, however, such an alteration took place in the language, as produces a doubt whether the Act, as ultimately passed, does not restrict the Collector entirely to Regulation XXVIII. of 1802, for enforcement of the Government demand.

4. The alteration alluded to is this. Instead of merely declaring "that the said Regulation XXVIII. of 1802, is and shall be *available* for the recovery, &c." the amended bill enacts that "the collection of the Government Revenue due on account of lands under settlement direct with the Ryot is a *khas collection* on the part of Government within the meaning of *Section XXXVIII.*, Regulation XXVIII. of 1802."

5. Now Section XXXVIII. declares the rules laid down in the preceding Sections (of Regulation XXVIII. of 1802,) applicable among other persons to "Collectors *making a khas collection* on the part of Government," and makes no allusion to Regulation XXVII. of 1802, as also applicable to the same.

6. Notwithstanding the object which Government evidently had in view, therefore the Board are of opinion that the terms of the Act afford such reasonable grounds of doubt, as to render it desirable that the question contained in the letter of the Collector of South Arcot should be put to the Officiating Government Pleader in the Sudr. Court.

7. In the event of his considering that the Collector is now confined to Regulation XXVIII. of 1802, for recovery of arrears, they wish to be informed further, whether all sales of land for Ryotwar arrears made subsequent to the promulgation of the Act are in consequence void, and what should be taken as the date of such promulgation.

(A true Extract.)

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

No. 13. ORDER THEREON, *No.* 111; *dated 29th January* 1857.

The Board submit with their opinion a letter from the Collector of South Arcot, enquiring whether it is imperative on Collectors under Act XXIII of 1856 to distrain the personal property of Revenue defaulters before proceeding to the attachment of their lands.

The Government agree with the Board as to the legal effect of Act XXIII of 1856; they consider that this act certainly limits Collectors, in the recovery of Ryotwary arrears, to Regulation XXVIII of 1802, to the exclusion of Regulation XXVII of the same year. It appears to them therefore unnecessary to refer this point to the Government Pleader.

2. As respects the Board's concluding remarks, the Government do not consider it necessary to refer the questions there stated for the opinion of the Government Pleader. No further sales of land for Ryotwary arrears should take place; but if the balances for which such sales have been ordered are still withheld, immediate recourse should be had to the provisions of Act XXIII of 1856.

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

½ Rec'd Despatches

Revenue Department.

No 194

Extract from the Proceedings of the Board of Revenue dated 17 January 1857

Read the following Letter

Recd 17 Jany 1857. from the Collector of South Arcot dated 11th January 1857

(Here Enter No 1)

Ordered that the foregoing letter be submitted for the consideration and orders of the Right Honorable the Governor in Council.

2 The question asked by the Collector is, whether it is imperative under Act XXIII of 1856 to distrain personal property previous to proceeding to the attachment of land.

3 From the letter from the Chief Secretary to Government to the Member for Madras, Paras 5 and 7, it was evidently the intention to frame an Enactment empowering the Collector to attach and sell either the personal property or land of

of the defaulter as might be deemed the readiest mode of recovering the arrear; and the original Draft sent up by this Government would seem to have been so worded as to secure this object. In Committee, however, such an alteration took place in the language, as produces a doubt whether the Act, as ultimately passed, does not restrict the Collector entirely to Regulation XXVIII of 1802 for enforcement of the Government demand. The alteration alluded to is this - Instead of merely declaring "that the said Regn XXVIII of 1802 is and "shall be available for the recovery &c" the amended Bill enacts that "the "Collection of the Government Revenue "due on account of lands under Settlement "direct with the Ryot is to take Collection "on the part of Government in the "manner of Sect XXVIII, Regn XXVIII of 1802.

Now Sect XXVIII declares the Rules laid down in the preceding Sections (of Regn XXVIII of 1802) applicable among other persons to Collectors making a like Collection on the part of Government, and

and makes no allusion to Regn XXVIII of 1802 - as also applicable to the same.

6 Notwithstanding the object which Government evidently had in view, therefore the Board are of opinion that the terms of the Act afford room for reasonable grounds of doubt, as to render it desirable that the question contained in the letter of the Collector of South West should be put to the Officiating Government Pleader in the Sudr Court.

7 In the event of this considering that the Collector is now confined to Regn XXVIII of 1802 for recovery of arrears, they wish to be informed further, whether all sales of land for Ryotwar arrears made subsequent to the promulgation of the Act are in consequence void, and what should be taken as the date of such promulgation -

(A true Extract)

S D Steer
Ag Secretary

To
J. P. Bourdillon Esq
Secretary to Government,
Revenue Department.

Ex M Newbigin

Rev Dept

No III

Extract from the Minutes of Evidence
Under date the 29th Jan 1857

Read the following
Extract from the Proc
eedings of the Board
of Revenue

Abstract of Correspondence 17 Jan 1857

Re Bazaar sub
ject on the part of
a letter from the Col
lector of South Arcot
enquiring whether it
is imperative on Col
lectors under Act
XXIII of 1856 to distrain
the personal property
of Revenue defaulters
before proceeding
to the attachment
of their lands.

The

The Government agree with the Board as to the legal effect of Act XXIII of 1850; they consider that this Act certainly bounds Collectors, in the recovery of Rent, arrears to Regulation XXVIII of 1802, to the exclusion of Reg. XXVII of the same year. It appears to them therefore unnecessary to refer this point to the Government Pleader.

2 As respects the Board's concluding remarks, the Govt do not consider it necessary to refer the questions there stated for the opinion of the Govt Pleader, as no further sales of land

for Rent in arrear should take place, but in the instances for which such sales have been ordered and which will be held, immediate measures should be had to the provisions of Act XXIII of 1856.

A.S.

J. Thomason
Actg Secy to Govt

3 Copies to the Board of Rev.
with Mem. Nigl. Govt Oct. 30

by Govt

Revenue 1857 Dispatch
Dr to Govt 6th February

No 111.

Extract Minutes of Govt:
Dd 29th Janry 1857.

Agreeing with the Bd as to the legal effect of act XXIII of 1856, & considering that this Act certainly transfers Collrs in the recovery of Ryotwary arrears to the regulation XXVIII of 1802 to the exclusion of Reg: XXVII of the same year & prohibiting any further Sales of Land for Ryotwary arrears.

No 12 & 13.

No 2 to Janry 1857