Revenue Department

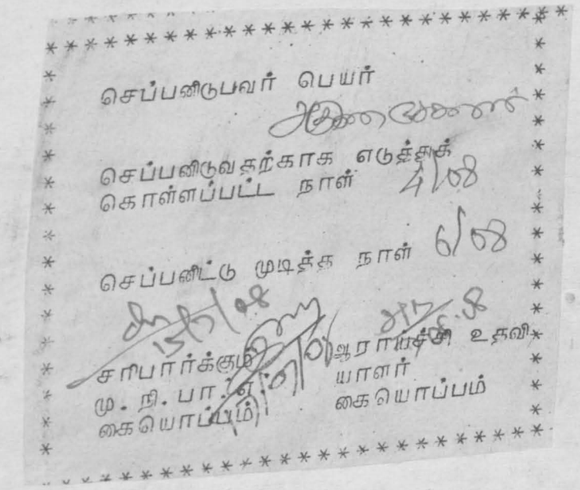
Minutes of Consultation

12th March 1858.

Book No. 344

Order No. 2817 of 3rd March 1858

8 Sheets



Fort Saint George, Revenue Consultation of 12th March 1858.

No. 3. Read the following Extract from the Proceedings of the Board of Revenue, dated 15th Febuary 1858, No. 623.

Read letter from the Acting Collector of Masulipatam dated 26th January 1858, requesting a reconsideration of the Orders of Government dated 22d December 1857, No. 1338, R. D,, declining to grant authority for the defence of two suits instituted against him, and offering certain remarks on the subject.

In Cons. 13th Feb. 1858.
In Cons. 24th Dec. 1857.

(Here enter No. 19.)

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

2. The Board would only observe that the Acting Collector had no personal interest in the matter in dispute. He was acting as he thought for the interests of Government and although his proceedings were somewhat irregular, he felt himself bound to guard against any encroachment upon the rights of Government.

(A true Extract.)

(Signed) J. D. SIM, *Sub-Secretary.*

No. 4. ORDER THEREON, No. 281; dated 3rd March 1858.

The Board of Revenue submit a letter from the Acting Collector of Masulipatam, requesting a reconsideration of the orders contained in Extract Minutes Consultation dated 23d December 1857, No. 1338. In that order the Government declined to grant authority for the defence at the public expence of two suits instituted against that officer on the ground that the course pursued by him in having filed the answers without authority was contrary to certain Circular Orders of the Board of Revenue.

2. Mr. Knox, in his letter now before Government, states that though Government were not parties to the original suit, their interests were at stake, and that the interference of the Collector was necessary; that he was not Acting Collector when the Civil Court was first moved to strike off the suits; and that if the eventual judgment is for Plaintiffs, Government will lose their land and must bring suits to recover it.

3. The Government have only to remark that a Decree in any suit cannot affect the rights of a party not included in the suit, and that therefore the interference of the Collector was uncalled for; moreover, the proceeding to which the Government have taken exception in their order of the 22d December, as contrary to the prescribed course, was not the moving of the Court to strike off the suits, but to filing the answers without permission, and for this Mr. Knox is responsible. That gentleman received copies of the Plaints on the 1st July, and the answers do not appear to have been filed before 23d August; so that there was sufficient time to allow of his obtaining the usual sanction, and if he was of opinion that no drafts of the answers could have been prepared before the mediators settled the boundary dispute, the Court would have had no objection to extend the time, if cause was shewn for the same.

4. The last point adduced by Mr. Konx, viz. that the Government will suffer if the judgment should be in favor of the Plaintiffs is also untenable. This is against his own admission in para. 10 of the Memorandum which accompanied his letter of the 30th November, that "the question of boundary being settled between the Proprietors on the one part and the Government on the other, the interests of Government are no longer at stake by the issue of these suits." The settlement of the boundary puts at rest the point as to whom the lands belong to, which is all that the Government need take any trouble about, for whoever holds and cultivates them will have to pay the cist. In fact, after the arrangements of the boundary, which took place before the filing of the answers, had the Acting Collector allowed the suit to go by default, the interest of Government would not have suffered.

5. Under these circumstances, the Right Honorable the Governor in Council does not see sufficient cause to reverse the order dated 22d December last. The Board will inform Mr. Knox that it is highly desirable that the orders prescribed for the guidance of the officers of Government should be strictly adhered to, and that Government will not overlook deviations except under special circumstances; such circumstances are wanting in the case under notice.

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

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Extract from the Proceedings of the Board of Revenue, dated 15th February 1858.

Read letter from the Acting Collector of Mas dated 26th January 1858, requesting a reconsideration of the Orders of Government dated 22d December 1857, No. 1338, R.D. declining to grant authority for the defence of two suits instituted against him, and offering certain remarks on the subject.

In Con. 15th Feb. 1858.
In Con. 24th Dec. 1857.

(Here enter No. 19.)

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

2. The Board would only observe that the Acting Collector had no personal interest in the matter in dispute. He was acting as he thought for the interests of Government and although his proceedings were somewhat irregular, he felt himself bound to guard against any encroachment upon the rights of Government.

(A true Extract.)

Sub Secretary.

H. FORBES, Esq.
Acting Secretary to Government,
Revenue Department.

Revenue 1858 Dep.
to Cons. 12th March
No. 228.

Extract from the Proceedings of the Board of Revenue.—

Dated 15th
Rec'd 16th } February 1858
1 Encl. Returned

No 623.

Ex No. 281. 3rd March 1858.

Submitting a letter from the Acting Collector of Masulipatam requesting a reconsideration of the Order of Government dated 27th December 1857 No 1338 declining to grant authority for the defence of certain suits instituted against him.

Rev Dept

No 281

Extract from the Minutes of Consultation

Under date the 3rd March 1858

Read the following Extract from the Proceedings of the Board of Revenue—

(Received under 15th Feb/58 No 623)

The Board of Revenue

-mend to Govt a letter from the Acting Collector of Masulipatam requesting a reconsideration of the orders contained in G. Minute Letter 27th December 1857 No 1338— In that order the Government declined to grant authority at the public expence for the defence of two suits instituted against that officer on the grounds that the course

course pursued by him in having filed the answers without authority was contrary to certain circular orders of the Board of Revenue.

2 Mr Knox, in his letter now before Government states that the Government were not parties to the Original suit, their interests were at stake, and that the interference of the Collector was proper, as that he was not acting Collector when the Civil Court was first moved to strike off the suit, and that of the writ & judgment is for plaintiffs, but will be therefore must bring. found and all report, unto to reverse it.

3 The Govt have only to remark that a Decree in

in any suit cannot affect the rights of a party not included in the suit, and that therefore the interference of the Collector was uncalled for. However the proceeding to which the Govt have taken exception in their order of the 22d December, as contrary to the prescribed course, was not the moving of the Court to strike off the suit, but to filing the answers without permission, and for this Mr Knox is responsible. That gentleman received copies of the Plaints on the 1st July and the answers do not appear to have been filed before 28 August, so that there was sufficient time to

to allow of this obtaining the
usual sanction, and, if he
was of opinion that no
draft to the answers could
have been prepared before
the mediators settled the
boundary
dispute, the Court would
have had no objection to
extend the time, if cause
was shewn for the same.

4 The last point
adduced by Mr Knox is
that the Govt will suffer
if the judgment should
be against the Plaintiffs.
This is also untenable. That
is against his own admis-
sion in para 10 of the Memo-
randum which accompanied
his letter of the 30th Novem-
ber, that "the question of
boundary being settled be-
tween the Proprietors and
the

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the one part and the Govt
on the other, the interests
of Govt are no longer at stake
by the issue of these suits"
of the boundary
This settlement puts at rest
the point as to whom the
lands belong to, which is all
that the Govt need take
any trouble about, for and who-
ever holds and cultivates
them will have to pay the
after the
dist. In fact the ~~case as~~
arrangement of the
~~remedy puts an aspect of~~
boundary
~~the motion~~ which took
place before the filing of
had
the answer ~~that was of~~
the Acting Collector allowed
the suit to go by default
the interests of Govt covered
Love
not suffered.

5° Under these cir-
cumstances the Right Hon-
able the Governor in Council

does

does not see sufficient cause
to reverse the order dated
22d. December last. The
Board will inform Mr.
Knox that it is highly de-
sirable that the orders
prescribed for the guidance
of the Officers of Govt. should
be strictly adhered to, and
that Govt. will not overlook
deviations except under
special circumstances, such
circumstances are wanting
in the case under notice.

WH

I Letter to the Bd of Rev.
with an Encl.
Decr. 4.

Revenue 1858 Despatch
Dft to Govt 12th March

No. 281

Extract Mins of Govt:
Dated 3rd March 58

Observing that the Government do not see sufficient cause to reverse the order of the 22d December last, declining to grant authority for the defence at the public cost of two suits instituted against the Acting Collector of Masulipatam and directing the Board of Revenue to inform Mr. Knox that it is highly desirable that the orders prescribed for the guidance of the officers of Government should be strictly adhered to.

No. 384