M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1505	Press ~~Mis.~~
56-57	
Dated 5-11-1859	

Not to be folded or roughly handled

No. 56. Read the following Proceedings of the Board of Revenue, dated 13th October 1859, No. 4130.

Read letter from the Collector of Chingleput, dated 6th October 1859, No. 374.

(In Con. 7th October 1859, No. 4998.)

In the above letter the Collector brings to notice that under the ruling of the Civil Court of Chingleput in the decree in appeal suit No. 35 of 1854, from the decision of the Collector, under Regulation V. of 1822, in original suit No. 8 of 1853, no Mirassidar can possibly have a sub-tenant in the real meaning of the term, that is a tenant holding land from him, paying rent to him, receiving so-called "puttahs" from him, and liable to have the rent recovered by distraint in default of payment; and that thus the intentions of Government to encourage a landlord class in Ryotwari districts, where such doctrine is maintained by the Courts, are nullified. He prays the Board, therefore, to take steps for the cancelment of the appeal decree in question.

2. The Board do not think it advisable, at this distance of time, to attempt so questionable a measure as the annulment of a decree which might and should have been tested by special appeal at the time, but they have no hesitation in stating their opinion, that the doctrine laid down in the decree in question is altogether erroneous and likely to prove most pernicious in its results, if admitted.

3. The Board hold that every Puttahdar in the country is competent to sub-let his lands held on puttah to sub-tenants if he can find them, to execute to them and require from them such agreements be they called "Puttahs" and Muchilkas," or "Géní Chittas" and "Kabuliat," or by any other name, as he may think necessary for the definition of their mutual relations, and also to recover his rent by distraint under Regulation V. of 1822.

4. The doctrine that no Mirasidar can sub-let any portion of his Mirasi land without giving notice to the Collector, and that then the puttah is to be granted to the Payakari, and the kist collected by the Government revenue officers direct from him, is, in the Board's opinion, based altogether on error so far as it is applied to lands already included in the Mirasidar's puttah, and assessed to the Government revenue: and should waste be applied for in a village where Mirasi right exists, the preferential right to its occupation belongs to the Mirassidars, who might obtain it on darkhast, have it included in their puttahs, and sub-let it to under tenants.

5. The rule laid down by the Civil Judge would render the existence of a landlord class impossible in the present state of the law, save under the "Permanent settlement." So monstrous a doctrine would reduce the substantial landholders of Tanjore, Malabar, Canara and numerous other districts, to the condition of agricultural labourers, and check all spirit of enterprize in connection with the improvement of land.

6. The Board desire the Collector to exercise the powers vested in him by Regulation V. of 1822, for the protection of the rights of landlords and tenants, and should any of his decisions be reversed on appeal to the Courts, on doctrine similar to that now brought to notice, he will immediately report the circumstance to the Board, and submit copies of the original and appeal decrees.

7. The foregoing observations are not intended to admit the right of Mirasidars to sub-let waste not included in their own puttahs, nor paid for by them to Government.

(A true Extract.)

(Signed) W. HUDLESTON, *Acting Secretary.*

No. 57. ORDER THEREON, 5th November 1859, No. 1505.

1. The Government agree with the Board that it is inexpedient to seek a reversal of the decree of the Chingleput Civil Court in Appeal Suit No. 35 of 1854. There is no doubt that it is based on an entire mis-apprehension of the nature of the existing revenue system, and of the rights of those holding land under it; but its reversal is not essential to the establishment of those rights.

July 1st 1859, *No.* 869.

2. In the order noted in the margin, the Government stated their views on the subject of giving summary powers of recovery of rent to all landlords, specially including those of the ryot class, and they requested the Board, in communication with Mr. Mayne, to revise in conformity with the views so declared, the draft Act prepared by him in concert with Mr. Parker, for the recovery of rents. Such an Act as that order contemplates will necessarily pre-suppose the right of a ryot to sub-let land, and so will prevent such mistakes as that exhibited in the decree under notice; but it may perhaps be expedient to include in it a clause declaratory of that right. This will be matter of consideration by the Board and Mr. Mayne.

3. The present papers show the necessity of the proposed enactment; and four months having elapsed since the issue of the orders, the Government resolve to recall it to the Board's remembrance, and to express the hope that the draft will be before them at an early date.

(Signed) J. D. BOURDILLON,
Secretary to Government.

No. 4130.

Proceedings of the Board of Revenue, dated 13th October 1859.
Read letter from the Collector of Chingleput, dated 6th October 1859, No. 374.
(In Con. 7th October 1859, No. 4998.)

In the above letter the Collector brings to notice that under the ruling of the Civil Court of Chingleput in the decree in appeal suit No. 35 of 1854, from the decision of the Collector, under Regulation V of 1822, in original suit No. 8 of 1853, no Mirasidar can possibly have a sub-tenant in the real meaning of the term, that is a tenant holding land from him, paying rent to him, receiving so-called "puttahs" from him, and liable to have the rent recovered by distraint in default of payment; and that thus the intentions of Government to encourage a landlord class in Ryotwari districts, where such doctrine is maintained by the Courts, are nullified. He prays the Board, therefore, to take steps for the cancelment of the appeal decree in question.

2. The Board do not think it advisable, at this distance of time, to attempt so questionable a measure as the annulment of a decree which might and should have been tested by special appeal at the time, but they have no hesitation in stating their opinion, that the doctrine laid down in the decree in question is altogether erroneous and likely to prove most pernicious in its results, if admitted.

3. The Board hold that every Puttahdar in the country is competent to sub-let his lands held on puttah to sub-tenants if he can find them, to execute to them and require from them such agreements be they called "Puttahs" and "Muchilkas," or "Géní Chittas" and "Kabuliats," or by any other name, as he may think necessary for the definition of their mutual relations, and also to recover his rent by distraint under Regulation V of 1822.

4. The doctrine that no Mirasidar can sub-let any portion of his Mirasi land without giving notice to the Collector, and that then the puttah is to be granted to the Payakari, and the kist collected by the Government revenue officers direct from him, is, in the Board's opinion, based altogether on error so far as it is applied to lands already included in the Mirasidar's puttah, and assessed to the Government revenue: and should waste be applied for in a village where Mirasi right exists, the preferential right to its occupation belongs to the Mirasidars, who might obtain it on darkhast, have it included in their puttahs, and sub-let it to under tenants.

5. The rule laid down by the Civil Judge would render the existence of a landlord class impossible in the present state of the law, save under the "Permanent settlement." So monstrous a doctrine would reduce the substantial landholders of Tanjore, Malabar, Canara and numerous other districts, to the condition of agricultural labourers, and check all spirit of enterprize in connection with the improvement of land.

6. The Board desire the Collector to exercise the powers vested in him by Regulation V of 1822, for the protection of the rights of landlords and tenants, and should any of his decisions be reversed on appeal to the Courts, on doctrine similar to that now brought to notice, he will immediately report the circumstance to the Board, and submit copies of the original and appeal decrees.

7. The foregoing observations are not intended to admit the right of Mirasidars to sub-let waste not included in their own puttahs, nor paid for by them to Government.

(A true Extract.)

Acting Secretary.

C. J. SHUBRICK, Esq., Collector of Chingleput.
Copy to Government.

Rev: Dept.

No. 1505

Proceedings of the Madras Government
Under date the 5 November 1859

Read the following
Proceedings of the Board of
Revenue.

Submitting for the information of Govt. a case brought to notice by the Collr. of Chinglepur where under the ruling of the Civil Court of the district in the decree A.S. No. 35 of 1854 no mirassidar can possibly have a sub tenant in the real meaning of the term, with an expression of the Bd.'s opinion that the doctrine laid down in the decree in question is altogether erroneous & likely to prove most pernicious in its results if admitted.

(Here enter 13th October 1859 No. 4130)

1. The Government agree with the Board that it is inexpedient to seek a reversal of the decree of the Chinglepur Civil Court in appeal suit 35 of 1854. There is no doubt that it is based on an entire misapprehension of the nature of the existing revenue system, and of the rights of those holding land under it; but its reversal is not essential to the establishme

Revenue 1859 Reft.

No. 1898

Proceedings of the Board of Revenue.

Dated 13 October 1859.

No. 4130

No. 1505. 5th November

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enables him to put of those rights.

2. In the order made in the margin, the Govt. solicits their views on the subject of giving summary powers of recovery of rent to all landlords, & specially including those of the poor class, and they requested the Board, in communication with Mr Mayne, to revise in conformity with the views so declared, the draft act prepared by them in concert with Mr Parker, for the recovery of rents. Such an act as that order contemplates will necessarily dispossess the right of a tenant to sublet land, and would prevent such arrangements as that exhibited in the Donaghmore indenture; but it may perhaps be expedient to include in it a clause declaratory of that right. This will be

July 1st 1857.

matter of consideration by the Board and Mr Mayne.

3 The present papers show the necessity of the proposed enactment; & four months having elapsed since the issue of the order, the Govt resolve to recall it to the Board's remembrance; & to express the hope that the draft will be before them at an early date.

I have &c

Copied to Belfast
Dublin

Rec. Cons: 16th Sept/59-11
12

Recorded 16th Sept
Cons: Certificate

No 1525.

Certificate of Marriage
of Mr. Thompson 1859.

Rector of the Parish of
St. Andrew Holborn
in the County of London
Vicar of the Parish of
St. Dunstan in the West
in the City of London

I Do hereby Certify that
Thomas Thompson Bachelor
of this Parish and Mary Ann
Jones Spinster of this Parish
were married in this Church
by Banns with Consent of
Parents this 30th day of August
in the Year One Thousand
Eight Hundred and Fifty
nine by me
Thomas Thompson Rector

In the Presence of us
Thomas Thompson
Mary Ann Jones

Thomas Thompson
Mary Ann Jones