M.R.O. 14—10,000—21-4-23

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.

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(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 5th November 1857
Read the following
Proceedings of the Board of
Revenue.

Submitting for the information
of Govt a case brought to notice by
the Coll.r of Chingleput where
under the ruling of the Civil Court
of the district in the decree A.S. No. 35
of 54 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
effect if admitted.

(Here enter 13th October 1857
No. 2130)

1. The Government
agree with the Board
that it is inexpedient to
take a reversal of the de-
cree of the Chingleput
Civil Court in appeal
suit 35 of 1854 - There is no
doubt that it is based
on an entire mis-appre
hension 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

Rev. Cons. 16th Oct. No. 1142.
— 29th Sept. to 16th Oct.

Revenue 1858
Rec'd 15th Oct.
Ans'd 19th

Proceedings of the
Board of Revenue.

Dated 13th
Sept. 1857.
Rec'd 15th
2 Encls.

No. 2130

No. 1505. 5th November

Submitting for the information
of Govt a case brought to notice
by the Collr of Chingleput
wherein under the ruling of the
Civil Court of the district in
the decree in 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 effect if admitted.

C. S. Thomas
Asst.

establishment of those rights.

2. In the order noted in the margin, the Govt. stated their views on the subject of giving summary powers of recovery of rent to all landlords, & specially including those of the export 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 presuppose the right of a export to sublet 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

July 1st 1859.

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.

Copies to Bds of Rev
Dists 5

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

Revenue 1859 Dep.t
Pro. of Govt. 15th Nov.

No 1505.

Pro. of the Madras Govt.
Dd 5th November 1859.

Rec.d the Bd of Rev. Dd
11. Octr /59 (No. 2037. date
Forwg Dr. 8/25. 30: No. 2021
(No. 2174.

On the ruling of the
Chingleput Civil Court
in C.F.S. No. 35 of 1854
regarding the Sub-tenants
of Uttradjachard.

No 56 to 57.