

Revenue Department

No 297

Dated 10-3-1859

Fort Saint George, Revenue Consultation of 15th March 1859.

No. 14. Read the following Extract from the Proceedings of the Board of Revenue, dated 10th February 1859, No. 502.

Read letter from the Collector of Masulipatam, dated 24th November 1858, No. 220, regarding the surplus sale proceeds of the Kykaloor Estate claimed by Brijee Mohundoss.
(In Con. 28th December 1858, No. 5428.)

In Consultation 30th June 1858.

Dated 18th February 1858.

Encl. in from Masulipatam 15th March in Con. 13th April 1858, No. 48.

In Extract Minutes Consultation 18th June last, No. 837, R. D., Government sanctioned the payment of Rupees 4,811-15-7 to Brijee Mohundoss on account of his claim on the Kykaloor Estate in Masulipatam in accordance with a decision of the Sudder Udalt. Of this sum Rupees 4,084-0-1 were supposed to be a balance in hand to the credit of the Estate.

2. Mr. W. Knox, on whom it devolved to carry out these instructions, reported that there was in fact no money in his treasury to the credit of the Estate, and as his predecessor had maintained that Brijee Mohundoss had actually received more than was really due to him, the Board have been compelled to go through the whole transaction from the beginning.

3. The case has been greatly complicated by the vague expressions of the late Acting Collector, and the unintelligible accounts prepared by him.

From Govt. 1091, R. D., 2nd Nov. in Con. 3d Decr. 1846.

4. From the papers now before the Board it appears that the Estate was actually sold on the 30th March 1846, for an arrear of Rupees 45,008-6-8, and was purchased by Government for Rupees 55,000.

In from Collr. 24th Nov. in Con. 28th Decr. 1858.

5. The Sudder Udalt have decided that the accounts should be closed on the day of sale. The Collector's Statement of arrears (Enclosure A) however runs only to the 15th March 1846, so that a fortnight's peshcush and interest seem omitted. Taking it however as it stands, the excess of purchase money over the arrears as therein shewn was Rupees 9,991-9-4.

In from Collr. 24th Nov. in Con. 28th Decr. 1858.

6. Various collections also were made from the ryots subsequent to the day of sale (30th March 1846,) on account of arrears due by them for antecedent periods. These as given in Enclosure B. amounted to Rupees 631-0-6, and besides them a sum of Rupees 1,852-13-7, had been reserved to meet sundry expenses which however in reality amounted to Rupees 376-14-4, or Rupees 1,475-15-3 less than the reserve.

	Rs.	A.	P.
Surplus sale proceeds.....	9,991	9	4
Collections Enc. B.....	631	0	6
Reserved Fund, less expenses.....	1,475	15	1
	12,098	9	1

7. The three items above noted thus amounted to Rupees 12,098-9-1.

8. The Sudder Court's account so far differs slightly in its total being Rupees 11,868-10-4; the difference Rupees 229-14-9 is said by the Collector to be owing to an error in the date of adjustment.

9. The amount paid to Brijee Mohundoss was Rupees 12,593-0-5 or Rupees 724-6-1 more than the receipts as stated in para. 7 of Mr. T. J. Knox's letter dated 15th March 1858. Mr. Knox however omitted one essential point—the arrear for which the Estate was sold included Peshcush and Interest due to Government from the Estate to 15th March 1846 while there was no credit per contra in favor of the Estate.

10. The question to be considered is what credit should be allowed on this account.

11. Under the Proprietor's management there were no kists between him and his Ryots, the produce being shared late in the year; on the other hand he had to pay his Peshcush, in advance of his collections; nominally therefore nothing may be said to have been due to him for

making the payment. In their proceedings

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the last year of his possession up to the day of sale but such an adjustment would be manifestly unjust. The Sudder in their account appear to have got over this difficulty by crediting him with exactly the sum charged against him for Pesheush and Interest during the same period. This however though more reasonable is still unjust, for the Estate must be supposed to have produced some profit to the owner. What this profit may or would have been cannot now be determined with accuracy, but the fairest course in the Board's estimation is to take the whole collections of the year and divide them between the old Proprietor and Government in the proportion which the Pesheush payable by him during his possession in 1845-46 bears to the whole Pesheush of the year. This adjustment after deducting a proportionate allowance similarly calculated for charges would amount to Rupees 6,012-3-9.

12. The whole account thus adjusted will stand as follows;—

Dr.				Cr.
Arrears with interest to 15th				
March 1846.....Rs.	45,008	6	8	Sale proceeds.....Rs. 55,000 0 0
Paid to Brijee Mohun doss...	12,593	0	5	Subsequent collections &c... 2,106 15 9
	57,601	7	1	Share of net collections up to
				March 1846, as per State-
Balance due...	5,517	12	5	ment C. from Collector,
				dated 24th November in
Rupees...63,119	3	6		Con. 28th Dec. 1853..... 6,012 3 9
				Rupees...63,119 3 6

13. This sum it will be seen is Rupees 705-13-4 more than the Sudder awarded. The Board do not think however that Government should be precluded by this decision from doing what is manifestly only an act of justice.

14. The exact amount due cannot be made out by the Board because as already noticed the original arrear is calculated only to the 15th instead of the 30th March 1846, but if Government sanction the adjustment being made on the principle proposed by the Board the Collector can be instructed to make the calculation accurately and pay the result to Brijee Mohundoss reporting the amount so paid for sanction.

15. The Board also recommend as Government have had the use of the money in the interval, and with reference to para. 6 of Proceedings of Sudder Udalt dated 26th November 1849, that interest at 5 per cent. should be allowed up to the date of actual payment.

16. If Government approve of these arrangements the Collector will take a receipt from Brijee Muhundoss in full of all demands against the Kykaloor Estate.

(A true Extract.)

(Signed) J. D. SIM, Secretary.

No. 15. ORDER THEREON, No. 297; dated 10th March 1859.

1. The Government approve of the way in which the Board of Revenue propose to settle the claims of B. Mohan Dás against the Kaikalúr estate: and as proposed in para. 14, the Collector will be instructed to calculate the amount now outstanding on the principle suggested, five per cent. interest being allowed up to the date of actual payment.

2. The Board will be good enough to submit the Sáhukár's receipt in full, when they finally report the amount for sanction.

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

Memorandum

When the Kaikalúr Estate in Masulipatanam was sold in 1846 for arrears of revenue, the defaulting proprietor was largely indebted to one B. Mohan Dás, and the monetary transactions between this individual and his debtor formed subject of litigation in the Courts. In 1858 the Sudder Court decreed that certain sums due to Mohan Dás to whom apparently the whole estate had been mortgaged by the Zamindar should be disbursed to him out of the funds remaining to the credit of the estate, when it was bought by Government at the sale in 1846. Accordingly. In Extract Minutes Consultation dated 18th June 1858 the Government authorized the disbursement to Mohan Dás of Rupees 4811-15-7 the sum decreed, and the Acting Collector was directed to lose no time in making the payment. In their proceedings

At 837 A.D.

proceedings above recorded the Board of Revenue report that Mr. W. Knox, on whom it devolved to carry out the order of Government wrote to the effect that there was no balance remaining to the credit of the Estate. The Board have consequently been compelled to go through the whole transaction from the beginning, and they give a clear summary of what has taken place; the substance of this is as follows.

The estate sold for Rupees 55,000 on 30th March 1846; the arrear up to 15th March on which date, instead of up to the day of sale, the Collector closed the accounts, was Rupees 45,008-6-8. The excess of purchase money over the arrear was thus 9991-9-16 adding to this certain Collections made subsequently on account of arrears due for periods antecedent to the date of sale, and the residue of a certain sum set apart for the payment of expenses after such had been discharged there remained a balance in favour of the Estate of Rupees

Rs. 631-0-6
 Rs. 1852-13-7
 Expenses 376-14-4
 Balance 1475-15-3

Rupees 13098-9-1. The sum paid to B. Mohan Das in accordance with the first award of the Sadar Adalat was Rupees 13,593-0-6, or Rupees 724-6-1 in excess of the apparent appts. consequently Mr. J. Knox reported as above stated that no funds were available to satisfy the Courts precept; But the Board adduce the following argument to shew that he is mistaken.

Under the proprietor's management of the Estate, his revenue was collected in a lump when the crops were shared later in the year, but the payments of Peshkash were made as usual in instalments, which ^{his} thus fell due in advance of ~~the~~ Collections. The sale took place in March; a portion of the Peshkash for the current Fussy had then become due, but the Estate had received nothing on account of the years income. While therefore Mr. Knox included the Peshkash due, and interest upon it, on the debit side of the account up to the day of sale, he omitted to credit anything ^{to the Estate} on the

the plea that ~~virtually~~ nothing had
been realized for it.

The Sadr Adalat have in their
decree credited the Estate with exactly
the sum charged for Pestikash
and interest, but the Board show
that this still falls short of what
is justly due, as the Estate must
have yielded some profit to the
owners. They propose, seeing that
it is impossible to determine exactly
what this profit may have been
to assume as the ^{income up to the day of sale} ~~amount~~, such a pro-
^{whole} portion of the ~~total~~ collections as the
Pestikash payable up to the day of sale,
bears to the whole Pestikash of the
year. This adjustment after deduct-
ing a proportionate allowance si-
milarly calculated for charges of
collection &c, would, the Board say
amount to Rupees 6012-3-9.

And they propose to
instruct the Collector to make
an accurate calculation on
this principle ⁺ up to the date
of sale, to pay the amount thus
shown to be due to Mohan Das
with 5 per cent interest (considering
that

the account having
been improperly
closed a fortnight
before.

that the Government have had the use
of the money) up to the date of
actual payment; and to report the
amount for sanction: a receipt
in full with them be taken from
Mohan Das, of all demands against
the Hais Ali's Estate.

Orders have been drafted
sanctioning the course suggested
by the Board.

W.H.

Feb 28.

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N^o 297

With an Explanatory
Extract from the Minutes of Consultation
Memorandum
Under date the 10th March 1854.

Extract from the Proceedings of
the Board of Revenue dated
10 Feb 1854 No 502.

1. The Govt approve of the way in
which the Board of Revenue
propose to settle the claims of
B. Mohan Das against the
Raikar's Estate: and as
proposed in P 14. the Collector
will be instructed to
calculate the amount now
outstanding on the principle
suggested, five per cent interest
being allowed up to the
date of actual payment.
2. The Board will be good
enough to submit the
Sahukar's receipt in full ~~to the Collector~~

H
L
M

W

from the Lakotas, when they
finally report the amount for
sanction.

M. H.

Feb 28

[Signature]

3 Copies to the D. of War. Dated 17th

Rev. Cons: 22^d June 1858

Revenue 1859 Sept.
D^o to Cons: 15th March.

N^o 297.

25/8/16

Extract Minis of Cons.
D^o 10th March 1859.

From B^o of Rev: 8th July 1859. C. No. 1288
in Cons 15th N^o 444 & 453
Pro: B^o of Rev: 7th Decr 1859. C. No. 1438
in Cons 12th N^o 264 & 27.

Approving of the way in
which the Board propose to settle the
claims of Brijee Mohan Das against
the Lakshmi Estate and desiring that
the Collector be requested to calculate
the amount now outstanding on the
principles suggested allowing 5 per cent
interest up to the date of actual payment.
The Board to submit the Lakshmi
receipt, in full, when they finally report
the amount for sanction.

N^o 14 & 15.

21st March 1859