M.R.O. 14—10,000—21-4-22

# MADRAS RECORD OFFICE.

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## Government of Madras.

Revenue **DEPARTMENT.**

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| G.O. No. 1575 | Press Mis. |
| 179-180 | |
| Dated 11-9- | 1860. |

***Not to be folded or roughly handled***

## *Proceedings of the Madras Government, Revenue Department, 11th September* 1860.

No. 179. Read the following Proceedings of the Madras Government in the Financial Railway Department, dated 31st August 1860, No. 513:—

*Sanctioning the payment of the compensation recommended by the Board of Revenue on account of the "Ballast Hill" in Malabar, taken up by the Madras Railway Company and the several plots of land occupied by the road leading to it from the Railway.*

(Vide Financial Railway Proceedings, 31st August 1860, Nos. 128, 129.

ORDER THEREON, 11th September 1860, No. 1,575.

No. 180. Ordered to be recorded.

(Signed) C. G. MASTER
*Deputy Secretary to Government.*

*PROCEEDINGS OF THE MADRAS GOVERNMENT.*

Read the following Proceedings of the Board of Revenue, dated 10th August 1860, No. 3,680.

Read letter from P. GRANT, Esq., Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 11th July 1860, No. 145.

I beg to forward a Tracing* referring to certain land called Ballast Hill, and the roadway leading to the same, both now in the possession of the Railway Company, but which have not yet been paid for, as the settlement of this point has presented considerable difficulty.

2. It is now two years* since the Resident Engineer, Mr. Lovell, applied for the land above alluded to, and wrote† that it was to be purchased by the Railway Company. My predecessor, and subsequently myself, rendered every assistance to procure the land.

3. Difficulties were somewhat increased by a change of the line leading to the Ballast Hill, and subsequently, by an increased width of line, to be purchased by the Railway Company, having been applied for by the Resident Engineer, *September 21st*, 1858.

4. After various enquiries for the determination of the right of ownership to portions of the land, and of the value of the various shares, the owners were referred to the Resident Engineer for payment, but he eventually wrote that they would not come to any terms.

5. With regard to the greater portion of this land, it is to be remarked, that it lies beyond the 100 yards from the centre line of Railroad, and cannot therefore be taken up under Act VI of 1857. It must consequently be purchased from the owners, on their voluntarily agreeing to divest themselves of their rights in the soil, or obtained on annual lease—this latter course must be pursued in the present instance, as I understand from the Government Civil Engineer that the land is only required for temporary purposes, although, I believe, I am justified in stating that it will be required until the Ballast Hill is expended.

6. When the first order to make over the land to the Company was given, it was issued evidently under the impression, that the whole of it came within the scope of the provisions of Section 37 of Act VI of 1857; but, although land for temporary purposes can be so acquired, as long as it lies within the 100 yards from the centre line of Railroad, a reference to the legal adviser of Government, as you are aware, has shown, that such is not the case with regard to lands required for permanent or temporary purposes, if situated beyond that limit. The provisions of the Act had been discussed, I know, a good deal in these parts by one of the claimants who happens to be a sharp man, and the son of a practising Vakil in the Civil Court of Calicut. He considered, I believe, his professional reputation to be at stake in his construction of the Act, according to which he declared to me that he had a right to cause the line laid down through his land to be taken, and heavy damages paid to him besides.

7. I now beg to enclose a Statement of the amount of land taken up, of the numbers of the lands through which the line passes, and of the value attached to each land by mediators and by the owners themselves.

*Enclosures 2.*

8. A perusal of the statement, and of the observations in the column of remarks, will place you in possession of all the information necessary to form an opinion on the merits of the case. The accompanying rough sketch,* referring to the Statement, will enable you to understand it at once.

* *Enc. 3, to be returned.*

9. This case, I may remark, has cost much trouble, but I believe that the terms now proposed are the best that can be made. Although the sum demanded by No. 6 is high, it is only so by comparison; for, were the Railway Company about to commence operations in Malabar, they would have to pay for land taken up for private purposes, at rates far in excess of what they have hitherto done; and even in the present instance, had it not been for the assistance rendered by the Collector in the first instance, it is doubtful whether they would have got it on easier terms than those now proposed.

10. On Nos. 1, 6 and 7 only I will make a few remarks, as the terms asked for the others seem reasonable.

* *Enc. 1, to be returned.*

* *May 6th*, 1858.

† *May 10th*, 1858.

11. No. 1, a garden belonging to a Nayar family, contains a well, a house and a few trees.

12. From the fact of the Railway to Ballast Hill passing through the garden and close to the house, the family have deserted it from fear of being polluted, and gone and resided in a hired house at a distance. That the house has been deserted and is fast going to ruin, is a fact. The mediators and neighbours value the whole property at Rupees 450; and considering that the family has had to pay rent for another house, it is believe that Rupees (500) five hundred will be a fair equivalent for the whole property. This sum, I think, should be paid. I feel confident that ere long, the property can be sold for as much, if not more than the purchase money.

13. For No. 6, the compensation asked is excessive, as compared with the prices hitherto demanded; but when the value of the Ballast Hill to the Company is considered, I do not think that it is too much to pay. The proprietor won't part with his jenm or proprietary right except at an exorbitant rate, but he is ready to let the Company have the land so long as as it is required on payment of the demands now made. No. 7 demands the same rate of payment as No. 6, in proportion to the extent of his land. I trust the terms here proposed will meet with the approval of Government; for if not, I see not how the matter is to be adjusted. The mistake in the case originally lay with the Collector who gave over the land, not being aware at the time evidently that it lay beyond the limits to which the provisions of Act VI were applicable. At that time every endeavour was made to facilitate Railway operations, and it was of vital importance to the Railway Company, that they should possess the land as a ballasting store.

*Rupees* 100 *for the first year and Rupees* 80 *for subsequent years, as long as the Company hold it.*

*Dated 2nd instant, No.* 171. An original letter (to be returned) received from the Government Consulting Engineer on the subject of this land, in reply to a letter addressed by me to him, is enclosed for reference.

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Enc. 1.

Abstract.—Stating that the question respecting the compensation, &c., to be awarded for the land taken up for the Ballast quarry, is one which should be disposed of by the Collector without reference to the Railway Company.

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Enc. 2.

Abstract.—Statement of compensation estimated to be paid for the road leading to the Ballast Hill in District 17, Shernad Taluq.

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Encs. 3 and 4.—Maps.

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1. Resolved that the letter above recorded be submitted for the Orders of Government.

2. About two years ago, the Resident Engineer of District No. 17 applied for and obtained possession of a hill for digging ballast and of the road leading to it, in Nedwa Umshom, Shernad Taluq, and endeavored to settle with the owners in regard to the price of the several plots of land occupied by the road and the hill, but his efforts proved unsuccessful. The land being situated at a greater distance than 100 yards from the main line of the Railway, the course prescribed by Act VI of 1857 for acquiring possession, or for determining the compensation, could not be brought into operation.

3. Under these circumstances, endeavors have been made to effect a private adjustment of the claims, and after encountering much difficulty and opposition, the Collector has succeeded through the intervention of mediators in coming to an arrangement, the result of which is reported in the foregoing letter.

4. Of the twelve claims set up, the terms assented to in nine are considered reasonable. Of the three others (Nos. 1, 6 and 7) the proprietors of No. 1 have deserted their holding from fear of being polluted, and have taken up their abode in a hired house at a distance. The mediators and neighbors value the property at 450 Rupees, but considering that the family has had to pay for another house, the Collector thinks that Rupees 500 will be a fair equivalent for the whole property. The Board so far concur with him, as to recommend that the latter amount be sanctioned, but they think that all reasonable expenses which the family may have incurred over and above that sum should be paid.



5. In Nos. 6 and 7, the proprietors decline to part with their *Jenm* right, except at prices most exorbitant, and far beyond the valuation fixed by the principal inhabitants of the neighborhood. They are willing, however, to rent the land at the rate of 100 Rupees for the first year, and 80 Rupees for the second and subsequent years, for piece No. 6, and a proportional amount for No. 7, according to its extent. These are the only terms which the proprietors are willing to come to; and under the circumstances explained, the Board recommend that those terms be sanctioned.

6. The total amount of compensation for which sanction is now required is Rupees 923-6-0 in addition to the arrangement just mentioned, and that proposed at the close of paragraph 4.

(A true Extract.)

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

*To J. D. Bourdillon, Esq., Secretary to Government, R. D.*

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Order thereon, 31st August 1860, No. 513.

The Government sanction the payment of the compensation recommended by the Board of Revenue on account of the "Ballast Hill" in Malabar, taken up by the Madras Railway Company, and the several plots of land occupied by the road leading to it from the Railway, amounting to Rupees (923-6-0) nine hundred and twenty-three, and Annas six, which includes the full sum recommended by the Collector as a fair equivalent for the property No. 1. The Government however think with the Board that all reasonable expenses which the family owning this property may have incurred over and above the sum of 500 Rupees, should be paid to them.

2. Under the circumstances explained in respect to the plots Nos. 6 and 7, the Government sanction the terms on which the proprietors are willing to rent the lands, viz: at the rate of 100 Rupees for the first year and 80 Rupees for the second and subsequent years for piece No. 6, and a proportional amount for No. 7 according to its extent.

3. Under the opinion communicated to the Collector by the Consulting Engineer for Railways, in his letter of the 2nd ultimo, No. 171, the Board will instruct that Officer to recover from the Railway Company whatever compensation is payable by them.

(True Extract.)

*Chief Secretary.*

To the Board of Revenue,
(with 3 enclosures and 2 plans.)
" Consulting Engineer for Railways.
" Collector of Malabar.
" Accountant General.
" Civil Auditor.
" Revenue Department, for information.

Exd. F. Cartledge.

Revenue 1860 Depart.
Pro: of Govt for Sept.

No. 1899

Proceedings of the Madras
Govt in the Financial
Railway Department.

Dated 31st August 1860
Recd 7th September 1860.

Sanctioning the payment of the compensation recommended by the Board of Revenue on account of the "Ballapt Hill" in Malabar, taken up by the Madras Railway Company and the several plots of land occupied by the road leading to it from the Railway.

No. 1575.

Recorded
11th September 1860.

Pro: of Govt in the Financial Dept
dy 7th March 1861 Nos. 625 in
pro 12th Instt No. 577.

Pro: of Govt in the Financial Dept
dy
pro
Instt No.

No. 179 & 180.