M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2128 Press ~~Mis.~~

224-225

Dated 13—11— 1860.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 13th November 1860.

No. 224. Read the following Proceedings of the Board of Revenue, dated 8th November 1860, No. 5,190 :—

Read letter from the Collector of Madras, dated 7th November 1860, No. 443 :—

(In Cons., 8th November 1860, No. 5,740.)

1. The Board have carefully considered the Collector's observations on their Proceedings dated 2nd instant, No. 5,052, but do not see any reason to alter the views then expressed by them.

2. The Board did not overlook the fact that it has for years been usual in Madras to levy quit-rent in arrear after the termination of the year for which it is due, and that these collections are termed "Current" in the account. This, however, is purely an official arrangement, with which the payers have no concern, for Government have clearly a right to demand payment of quit-rent whenever they think fit, after it has become due, (so that this is done within the period allowed by Act XII of 1851, Section 11,) and they may enter such collections by any term they please in their own accounts. All that is necessary is that the bill and receipt should specify the year for which the payment is claimed and received.

3. The decree of the Civil Court renders it impossible now to levy quit-rent for any year antecedent to the present Fasli, for the notification would then be retrospective and the decision would be practically nullified. The Government in fact have collected a just and legal due in an illegal manner, and the consequences must be accepted, but the same mistake will not again occur.

4. With regard to paragraph 3 of Mr. Cunliffe's letter, the Board think, that the presentation of the bill might perhaps have been considered sufficient notice, if it had not been followed immediately by compulsory collection of the rent. Even this, however, is doubtful, and the Court might have held that the presentation of the bill did not in law amount to the "notification" prescribed by the Act.

5. With regard to paragraphs 6 to 10 the Board remark, that the decree does not touch on the question of the liability of the land to quit-rent. All that the Court has decided is that the collection already made is illegal, because the notification prescribed in Section 3 of the Act was not given. The Board consider it quite open to the Collector to assess the land for Fasli 1270, giving the notice as instructed in paragraph 8 of the Board's Proceedings above quoted. It is possible that Plaintiff may contest this by a suit, but the Board consider that, if he has not appealed to the Board and procured the annulment of the assessment, the jurisdiction of the Court can be demurred to with success.

———

6. Resolved that a copy of these Proceedings be submitted to Government in continuation of the Board's Proceedings, dated 2nd November 1860, No. 5,052.

(A true Extract.)

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

———

No. 225. ORDER THEREON, 13th November 1860, No. 2,128.

The Government have considered Mr. Cunliffe's arguments, in the letter now submitted ; but they agree with the Board of Revenue, and see no occasion to modify their Order of the 9th instant, No. 2,098.

(Signed) J. D. BOURDILLON,

Secretary to Government.

Revenue Department

No. 3190

Proceedings of the Board of Revenue
dated 8th November 1860

Read letter from the Collector of Madras dated 7th Novr. 1860 No. 1443.
(Inclosing 8 Novr. 1860 No. 5740)

1 The Board have carefully considered the Collector's observations on their Pro: dated 2nd Instant No. 5052, but do not see any reason to alter the views then expressed by them.

2 The Board did not overlook the fact that it has for years been usual in Madras to levy quit rent in arrear after the termination of the year for which it is due and that these collections are termed "Current" in the account. This however is purely an official arrangement, with which the payers have no concern — for Govt. have clearly a right to demand payment of quit rent whenever they think fit, after it has become due, so that this is done within the period allowed by Act XII of 1851 Section XI and they may enter such collections by any term they please in their own accounts. All that is necessary is that the bill and the receipt should specify the year for which the payment is claimed or received.

3 The decree of the Civil Court renders it impossible now to levy quit rent from any year antecedent to the present Fasly,

for

for the Notification would then be retrospective and the decision would be practically nullified. The Govt in fact have collected a just and legal due in an illegal manner and the consequences must be accepted - but the same mistake will not again occur.

4 With regard to para 3 of Mr Cunliffe's letter the Board think that the presentation of the bill might perhaps have been considered sufficient notice, if it had not been followed immediately by compulsory collection of the rent. Even this, however, is doubtful and the Court might have held that the presentation of the bill did not in law amount to the "Notification" prescribed by the Act

Result is to stay if heard merely as a Demurrer

Act -

5 With regard to paras 6 to 10 the Board remark that the Decree does not touch on the question of the liability of the land to Quit Rent. All that the Court has decided is that the collection already made is illegal because the Notification prescribed in Section III of the Act was not given. The Board consider it quite open to the Collector to assess the land for Xmas 1870 giving the notice as instructed in para 8 of the Board's Proceedings above quoted. It is possible that Plaintiff may contest this by a Suit, but the Board consider that, if he has not appealed to the Board and procured the annulment of the Assessment, the Jurisdiction of the Court can be demurred to with success.

Certainly - costs of Demurrer should be allowed & Decree for Defts - 15 -

6 Resolved that a copy of these proceedings be submitted to Government in continuation of the Board's proceedings dated

2d

2° November 1866 N° 5052.

(True Extract)

J. D. Lane,
Secretary.

To

A. D. Bourdillon Esq.
Secretary to Government
Revenue Department.

Not having time out for
orders: but as the Collector argument
I am not stating the opinion of the
Bd. I think it — which that they
will not alter that if the first
I have not to add. The same dis-
-pute of the order on the same
papers — the wording of can be
rectified by a second order —

J. Thomson

The Board
see no reason
Superior to
do it as our
original Re
order — who
should be.

Hill
Sec

Copy in a Letter to Govt
2d Feby 1861 No 28.

Rev. 1860 Department
Pro: of Govt for Nov.

No 2578

Proceedings of the
Board of Revenue.

Dated 8th
Desp. 8th } November 1860.
Rec. 9th

1 Encl: none

No 5190.

Submitting with Board's observations Letter from the Collector of Madras regarding the Suit connected with the levy of Quit Rent on a piece of land belonging to Kavali Vencatanarayanappa of Madras.

No 2128. 13th Nov.

With an order

No 224 & 225.

10th Nov.

No 2128.

The Govt have considered Mr Cunliffe's arguments in the letter now submitted; but they agree with the Board of Revenue, and see no occasion to modify their order of the 9th Inst.

No 2048.

Fort St Geo:
13th Nov. 1860.

12 Copies
To the Board of Revenue

Dispt 14