M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	493	Press ~~Mis.~~
124-125		
Dated	30 - 3 - 1860.	

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, for the month of March 1860.

No. 124. Read the following Proceedings of the Board of Revenue, dated 10th March 1860, No. 1,226.

Read letter from the Collector of Malabar, dated 20th January 1860, No. 17.

(In Con. 27th January 1860, No. 400.)

Read also letter from the same Officer, dated 15th February 1860, No. 37.

(In Con. 20th February 1860, No. 789.)

In the above letters the Collector of Malabar submits an application from Mr. Brown, of Anjerakandi, in that District, for permission to redeem the quit rent on a property of his at Calicut, on payment of 20 times the assessment now paid by him.

2. The Collector at first doubted whether the land could be considered as coming within the scope of the Orders of Government, (noted in the margin,) being in fact a fine garden. Mr. Brown, however, pointed out that but for the dilapidations of a tenant whom he had only recently ejected, there would have been four houses and seven shops on the land as there were when it was leased, and the Collector also states that there are the ruins of buildings on it, as well as a cocoanut tope and hut of trifling value. The Board, therefore, consider that the land may be deemed to come within the scope of the Orders above quoted.

No. 1,053, *5th in Con. 9th August* 1859, *No.* 3,998.

3. Another question, however, presents itself for solution. The land is rated as garden, and now pays an assessment of Rupees 6-11-6. The garden assessment of Malabar was fixed on the *productive* trees only, those past bearing and those too young to bear being first excluded from the calculation. By immemorial usage, the rent and the tax on gardens are liable to periodical revision, 12 years being the usual period, when the number of productive trees is recounted and an adjustment made accordingly.

4. No general revision of the Government assessment on this principle may be said to have been made since Mr. Græme's assessment, and the work, it is obvious, would be one of immense labor. The principle, however, remains, and in private transactions is universally acted on. The question which now requires solution is, whether in the redemption of land rated as "garden," but coming within the scope of the Freehold Rules, the commutation money is to be 20 times the *present* assessment, or 20 times that which would be fixed, if the above principle were brought into operation.

5. The Board have already declared themselves averse to any general revision of assessment, pending the regular professional survey and re-assessment, and in this view Government have concurred. But the question above raised is materially different. If the tax is to be permanently redeemed at its present amount, no future revision, is practicable, and the bearing of such a step as the virtual abandonment of the principle on the future operations of the Survey needs serious consideration. On the other hand too, the operation of the Freehold Rules will be gradual, and the revision would be easy, as the extent of land to be operated would be comparatively small.

Board's Proceedings, 21*st Nov.* 1859, *No.* 4,762.

From Government, No. 19, *R. D., 5th in Con. 7th January* 1860, *No.* 85.

6. The garden assessment of Malabar is generally light, partly from improvements, but in a much greater ratio from the enhanced prices of produce, which for years have greatly exceeded the commutation rates.

7. In the case now under consideration, the present assessment paid by Mr. Brown is Rupees 6-11-6, while the revised assessment by the Collector's report would be Rupees 11-7-7.

8. The Board concur with Mr. Grant that a revision of assessment is necessary in cases like the above, but as the redemption is permanent, they think the revision should be conducted in a liberal spirit, leaving a fair margin for future depreciation and risks, which will thereafter fall on the proprietor alone.

9. In pargraphs 9 and 10 of his first letter, the Collector submits two other questions which also require the Orders of Government.

10. The agricultural population of Malabar reside for the most part on their properties and not in villages as in other Districts. Their houses are in the midst of their "garden" land and Mr. Grant wishes to know whether redemption is to be allowed in all such cases.

11. The other question is whether landed proprietors may similarly redeem the quit rent or assessment on lands occupied by the houses of their tenantry.

12. The Board request the Orders of Government on these points.

13. The extent of land sought to be redeemed will always afford the means of judging whether an applicant is endeavouring to transgress the limits assigned by Government to the operation of the Freehold Rules.

14. The Board do not doubt that owing to the peculiar circumstances of Malabar advantage will be more generally taken of these Rules there than elsewhere, but on the other hand, as Mr. Grant acknowledges, the political value of the measure is peculiarly great in that province.

15. Resolved that the above letters be submitted for the consideration and Orders of Government.

(A true Extract)

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

No. 125. ORDER THEREON, 30th March 1860, No. 493.

The garden lands of Malabar yield an important part of the land Revenue of the Province; they do not, therefore, come within the scope of the Freehold orders, as stated in paragraph 2 of the Order of August 5th 1859, No. 1053.

2. Mr. Brown's garden appears to be an ordinary Malabar garden, and the Government cannot make an exception in his favour.

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

IN CON. 27TH JANUARY 1860, No. 400.

From P. GRANT, Esq., Collector of MALABAR,

dated Calicut, 20th January 1860, No. 17.

On the 20th December 1859, Mr. Brown of Aujerakandi, proprietor of a paramba or ground in Calicut, assessed at Rupees 6-11-6, applied to have the same converted into freehold, under the orders of Government, dated August 5th, 1859, No. 1053, on payment into the Government treasury of twenty times the sum now payable as annual land tax.

2. On receipt of the tahsildar's report on the paramba in question, it appeared to me that it was nothing more than a flourishing cocoanut garden, with no dwelling on it, and that it, therefore, did not come within the scope of the Government order, which, in paragraph 7, is declared to have reference to land occupied for buildings, that to admit this land and lands of a similar nature and in like circumstances, would tend very materially to affect the revenues of Malabar, which, to a great extent, are collected on cocoanut gardens.

3. Government in their Proceedings state in paragraph 2, that any sacrifice of the land revenue generally is to be deprecated, and in paragraph 3 that their object is to give house-owners, the advantage of an absolute freehold.

4. Under the above view of the case, I informed Mr. Brown of my opinion with regard to his application, and told him, at the same time, that if he thought my construction of the Government order too restricted, I should be glad to hear from him on the subject. I at the same time told Mr. Brown that I thought, that when the orders of Government were taken advantage of, the gardens should be examined and their conversion into freehold be made on a calculation based on a tax which should now be collected, on a consideration of the additional number of new trees which had come into bearing, since the last examination of the garden, which had taken place perhaps 20 years before.

5. This is an important point, in the determination of such cases in Malabar; for you are aware that many years have elapsed since the cocoanut gardens have been surveyed, and that, consequently, our present collections on them are, as a rule, in very many instances, below what they justly might be.

Dated 9th January 1860.

6. Mr. Brown's reply I give in his own words, in the following extract from his letter;—

2. "You reject my application for the conversion of my Calicut land into freehold, on "the ground that the Government Proceedings of the 5th August 1859, apply only, as you "state, to land occupied for buildings," and not to land like mine, which, you observe, is "simply "a cocoanut garden paying an annual land tax.

3. "As I think your construction of the Proceedings too restricted, and as you invite "my opinion, I avail myself of your invitation to state the reasons why I give to them a much "wider latitude than yourself.

4. "The meaning and intention of the Government are best learned from its own words. "In defining the land, to which the Proceedings accord the privilege of being converted into "freehold, the words of the definition are; paragraph 2, 'Building land and land occupied by "buildings;' paragraph 3, 'With the view of giving houseowners in this country the advan-"tage of an absolute freehold right, the Governor in Council has resolved to sell outright the "fee simple of all land now used, or hereafter required, and available for buildings, without "any reservation of quit-rent, and with an absolute and indefeasible title.'

5. "The land convertible into freeholds, therefore, is declared by the Government to "be, first, 'all building land and land occupied by buildings,' second, 'all land now used, or "hereafter required, and available for buildings.'

6. "The question is whether my land comes within the meaning of these definitions. "But for the outrageous dilapidations of a fraudulent tenant, whom I only lately got rid of by "a decree of ouster, my land would have upon it, as it had when it was leased, four good houses "and seven flourishing shops. This fact fulfils the first condition, since it shews that the land is "building land, and was occupied by buildings.

7. "As to the second condition, whether the land fulfils that, is to be determined by its "actual situation.

8. "The very next premises to mine, on the south side, with no separation but a "hedge, are the premises belonging to the German mission, formerly my property. They are "filled with the large and substantial mission houses, schools, and workshops, and with the mis- "sion church. No person will contend that these adjoining premises, thus occupied, are not "within the strict limits of the town of Calicut, so also, therefore, is my land. Further, it is "divided from the Collector's cutcherry only by the width of the high north road, leading im- "mediately into the town, while another high road branches off direct to the sea beach. Whe- "ther for the sanctioned English church, or for a good English house, or for native houses and good "shops, no more central, or eligible or convenient spot can be found. No land, therefore, can "well be pointed out within the present town limits, more likely than this to be hereafter re- "quired and available for buildings, either public or private. I think, therefore, that it fairly "fulfils also the second condition. Nor does it seem to me that either condition is voided for "the reason that, besides houses and shops, the land contains cocoanut trees. It is not very "many years since all choultry plain, up to the glacis of Fort. Saint George, consisted of nothing "but tope and paddy fields, without anything upon it above a pariah wigwam; so in all cultivat- "ed and people countries, where towns grow and are suffered to grow, orchards and corn-fields "gradually give way to houses and other structures. Much would it surprise an English or a "Scotch landlord, whose land was being converted into town land, to be told that his yearly rent- "al would suffer by the process.

9. "With regard to the other point to which you advert, the rate at which my land "should be converted into freehold, my calculation adopted the basis laid down by the proceed- "ings, and assumes twenty years of the present annual revenue as the purchase money, that "being the rule prescribed. It was not for me to travel away from it, and assume a basis of my "own. But quite irrespective of my own case, I feel persuaded that what the proceedings in- "tend is a large and liberal measure, which shall embrace all the building land comprehended "within the limits of every town in the country, and which shall be commensurate to the enlarg- "ing wants of a growing population. If the purchaser does not build on his freehold, he must "be the loser; if he does the Government cannot fail to be a gainer, for whatever he builds, whe- "ther house, shop, or warehouse, the structure becomes immediately liable to moturpha over and "above the purchase money the Government will have received, and which, at the current value "of ordinary agricultural land, is a high price."

7. In looking at the report received about the land, I find that there are on it the ruins of sundry shops, and that there is now existing a cocoanut safé worth about Rupees 15, and a hut valued at Rupees 4. Whether these conditions fulfil the intentions of Government is a point on which I am very doubtful.

8. Comprehensive and liberal as those intentions are, I think that caution is requisite in carrying them out in this province.

9. All the Hindús and the majority of the Mapillas live in their gardens in detached houses, and to permit them all to purchase their gardens as freehold, would politically be a most important step, tending to order and the confirmation of our power, but its adoption is a point for the decision of Government.

10. All proprietors living on their own lands, should, I think, be allowed the benefit of the Government orders, with reference to the garden on which the family house stands; but whether they are to be allowed the same privilege with regard to the lands on which their tenants' houses are situated, is a question to be resolved.

11. I request the order of the Board on the several questions adverted to.

Ed. J. Wright.

From the Coll^r of Malabar D/27 Aug^t
to L^r N^o 1351 in Pa.
19 September 62 N^o 1044.

N^o 124 & 125.

L^r 23^d March 62 "

Revenue 1860 Depart^t
Pro: of Govt 31st March

N^o 566

Proceedings of the Board of Revenue.

Dated 10th March 1862
Recd 17th
2 Enclo:
N^o 1493. 30th March

N^o 1226

Submitting for consider-ation and orders letters from the Coll^r of Malabar forward-ing an application from Mr Brown of Anjera Kandi for permission to redeem the quit rent on his property at Calicut on payment of 20 times the assessment now paid by him.—

With an order

For 12 Geo
30 March 1860.

"Copies Board of Rev.
Dis^d 31st

N^o 493.

The garden lands of Malabar yield an important part of the land revenue of the Province, they do not, therefore, come within the scope of the Freehold orders as ~~explained~~ stated in para 2 of the order of August 5th 59 N^o 1053.

2. Mr Brown's garden appears to be an ordinary Malabar garden, and the Government cannot make an exception in his favour.