M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 896 — Press / Mis.

166-167

Dated 31-5- 1860.

Not to be folded or roughly handled

No. 166. Read the following letter from Messrs. LINE and Co., to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated Madras, 7th May 1860:—

1. We have the honor to forward for the consideration of His Excellency in Council a printed copy of a Petition forwarded to the Directors of the Honorable Company in 1846.

2. This Petition relates to a claim made by a Native gentleman of the name of M. Venkatáswámi Náyudu on the Zamíndár of Vásireddi.

3. The Estates of this Zamíndár were attached by Government in 1846 and their revenues have been appropriated ever since, yet the just claim of M. Venkatáswámi Náyudu has been set aside notwithstanding that the Honorable Walter Elliot when Commissioner in these Districts recommended Government to pay us as his Assignees Rupees 1,03,642 and that the following decree (No. 9 of 1841) was issued in his favor by the Court of Sadar Adálat.

"The Plaintiff's case is proved clearly and beyond all doubt, and it is impossible not to "feel the utmost surprise, at the gross and shameless defence set up by the Defendant, a man of "rank, to evade his just debts and to injure the Plaintiff on whom it is evident he has long "depended for support: The decree of the lower Court is affirmed with Interest up to the date "of execution, the entire costs to be paid by the Defendant in the Original Suit and in "the Appeal."

4. It is unnecessary here to add further particulars—they are fully enumerated in the enclosed Petition.

5. The trial of the case is now barred by the Statute of limitations: and were it otherwise the delays, vexations, and expenses of a trial, with the certainty of an appeal to the Privy Council, would deter us as they have hitherto done from entering into a contest with Government.

6. Petition after Petition was laid before the authorities within the prescribed time, and received the replies which in those days were invariably given to such claims.

7. These Petitions and all the papers connected with this case are now in our possession, and we are prepared to forward them for the information of Government if we are required to do so. But considering that the case has already been thoroughly sifted by a special Commissioner; and that a definite recommendation has been made by him, we are of opinion that a second sifting is unnecessary. These papers became our property by assignment before the property was attached by Government, and before the insolvency of the Zamíndár was known.

8. We had long ceased to hope that this claim would receive the consideration which it deserves, and had ceased to interest ourselves in the matter—for in the days when the Court of Directors believed, that annexation and absorption were, under Providence, its special duties, its decrees, in such cases as the Vásireddi Zamíndári, were uniform and unbending—but we are now led to hope that more just and liberal ideas are entertained as to the duty of Government, and that such claims as M. Venkatáswámi Náyudu's will be honestly dealt with, notwithstanding that the Statute of limitations bars our legal claim.

9. In proof of our statement concerning the policy of former Governments we beg to inform Government that on inquiry they will find that the sale of the Vásireddi Estate was not conducted legally, that when notice was given of the intended sale of one Táluq, two Táluqs were sold; and that the whole matter was conducted with haste and precipitancy.

10. In conclusion we would call the attention of Government to the prediction contained in the penultimate paragraph of the Petition, and urge its fulfilment as an additional argument in favor of a liberal treatment of our claim,—namely, that the Revenue of Guntoor has vastly increased and is annually increasing; and that out of the profits which thus accrue to Government they may easily meet our just claims, or at least fulfil the compromise proposed and recommended by the Honorable Walter Elliot, the Commissioner specially appointed to inquire into the circumstances of the case.

TO THE CHAIRMAN, DEPUTY CHAIRMAN AND DIRECTORS OF THE HONORABLE EAST INDIA COMPANY.

The humble Memorial of C. Venkatáswámi Náyudu, Executor to the Estate of the late Mámbalam Venkatáswámi Náyudu of Madras.

Your Memorialist begs to bring to the notice of your Honorable Court that the late Mámbalam Venkatáswámi Náyudu being on terms of friendship and intimacy with Rájá Vásireddi Rámanádha Bábu, Zamíndár of Vásireddi, advanced him at his request, in all the sum of Rupees 1,08,358 for which the Zamíndár gave under dates the 30th June, and 1st and 2nd July 1833 his Bonds, the terms of which were to repay the same on demand with 12 per cent. interest per annum until date of payment. After repeated applications from M. Venkatáswámi Náyudu for the settlement of these Bonds, which the Zamíndár for a long time evaded (with the exception of the sum of Rupees 5,000, which he paid in part in 1838), the former at length brought an action against the latter in the Provincial Court of Masulipatam, which was decided in favor of M. Venkatáswámi Náyudu. Upon this the Zamíndár appealed to the Court of Sadar Adálat, and pending the transmission of the case to the Sadar Court, M. Venkatáswámi Náyudu died. The result of the appeal was that the Sadar Court confirmed the decision of the Provincial Court. Upon this, the Zamíndár having been again applied to for payment without success, a writ of Execution was taken out against his property, but at the requisition of Walter Elliot, Esq., Member of the Revenue Board who was sent by Government to Guntoor as Government Commissioner, a compromise being proposed and recommended by him for the consideration of Government, the writ of Execution was stayed until the result should be known, and some property which had been seized under the writ was given up. The compromise proposed by Mr. Elliot was for the Estate to receive the principal of the debt with Court charges, but without interest, less 15 per cent.

Your Memorialist begs further to state that in addition to the above, M. Venkatáswámi Náyudu advanced to the said Zamíndár the sum of Rupees 20,000, for which a Bond was granted by the latter under date 30th August 1838, agreeing to pay the same on demand with 12 per cent. interest per annum until date of payment, but the deceased M. Venkatáswámi Náyudu deferred bringing an action for this claim pending the previous suits being disposed of. On this, Mr. Elliot proposed to pay a moiety or to compromise the same for Rupees 10,000 having fully satisfied himself of the correctness of the claim. The adjustment of these debts as proposed by Mr. Elliot, was agreed to on the part of your Memorialist in the full hope that the Government would make a speedy settlement thereof, though the amount to be received under this arrangement on M. Venkatáswámi's claim as above would only be Rupees 1,03,642 while the actual debt legally and justly due at the time, including principal, interest, and Court charges was Rupees 3,09,186-6-4.

See Appendix A.

Your Memorialist finding that the terms of the compromise proposed by the Government Commissioner were not adhered to, applied to him for information, and being by Mr. Elliot referred to Government, Memorialist addressed a Petition to the Most Noble the Governor in Council of Madras on 21st March 1846, in which all the above particulars were fully set forth and explained. That Petition was referred by Government to the Board of Revenue, and an endorsement given as follows, viz. "Government having confirmed the sale of the Guntoor "Estates on account of the Circar arrears, and the sale proceeds having fallen short of the Public "demand, the Board cannot interfere on behalf of Petitioner."

It is under such *unprecedented* circumstances as these, that Memorialist craves the attention of your Honorable Court, who have always been signalized by the ample and speedy redress given to any of your Native subjects whose rights have suffered by misapprehension of, or inadvertence to, the real merits of their case.

Your Memorialist would accordingly proceed to state, that since he received the reply of the Board of Revenue he has been led to enquire what has been done by Government for the creditors of other Zamíndárs, than those of the Guntoor Estates, and he learns that the Government have

been pleased to make arrangements for the liquidation of their debts, whereby good faith has been observed between man and man, and the interests of just creditors protected and secured.

Your Memorialist will cite the case of the Zamíndár of Nididavól in the Collectorate of Masulipatam, as an instance in point, which shows the kind feeling entertained by Government, and the powerful assistance the Government is willing to extend to their Native subjects in cases where large landed proprietors are unable to liquidate their debts and when the Government take the charge of such Estates into their own hands.

From a consideration of what a kind and paternal Government has done in this and other instances, your Memorialist would solicit attention to the circumstances of his own case, and since he is enabled to trace out in the replies already received, a disposition to give him assistance, provided only that certain impediments which stand in the way, are removed, your Memorialist would urge upon the consideration of your Honorable Court that his is a case which deserves their support upon its individual merits.

If parties have done what lay in their power to thwart Government, and its measures, and they themselves are subsequently visited with trial, it could not be expected that Government would be disposed to assist *them*, but if the converse be true, and it be found on enquiry that certain individuals have manifested not a passive acquiescence only, but an active zeal to co-operate with Government and its Officers, then it is but fair to expect a reciprocity of kindly assistance from the ruling power towards such individuals.

Your Memorialist begs to point out that such was his conduct towards the Commissioner, whom Government deputed to investigate into the debts of the Proprietors of the Guntoor Estates; he came forward with readiness to afford what facility he could in furtherance of the Commissioner's views, and when the Commissioner intimated to him his wish to recommend to Government a compromise of the Zamíndár's just debts, he at once acceded to the views of the Commissioner with regard to the proposed compromise of his own claim, though the same involved a very great pecuniary loss, and he believes that his compliance with the Commissioner's proposal was the means of inducing other creditors also to agree thereto.

The Commissioner in accordance with the instructions furnished to him by Government, enquired into the claims of the creditors of the Vásireddi Zamíndár, and was fully satisfied of the validity of the debt due to M. Venkatáswámi Náyudu by that proprietor. He perused with attention the Decrees of the Provincial Court and of the High Court of Sadar Adálat thereon which are all in Memorialist's favor, and when he found that that High Tribunal had issued a writ of Execution against some of the personal property of the Zamíndár, and upon which some property had been seized—and more would in all probability have been obtained, the Commissioner proposed to Memorialist's Agent to apply for the removal of this attachment, telling him if he did so, he would recommend his case to the favorable notice of the Government. In accordance with this proposal your Memorialist's Agent at once applied for a removal of the attachment and gave up the property in his possession.

Such are the leading features of his case, and here Memorialist would respectfully press upon the consideration of your Honorable Court the disappointment he experiences, after all he has done in assisting the views of Government, when he finds he is not even replaced in the position he occupied prior to the engagement made with him by the Commissioner.

This it was but natural to expect, for if two parties agree upon a certain line of conduct, and one yield an important point upon an express understanding that if he does so, a prospective benefit will be extended to him, there is nothing unreasonable in the hope, on the benefit being withheld, that the party who had been led to expect it, will be restored to the possession of that advantage which he had relinquished. This is true in private life and *much more so* in a case wherein the Government and one of its subjects are parties.

Your Memorialist must necessarily feel that while his part in the engagement has been fully carried out, the promise of the Commissioner has not been fulfilled.

In order to the complete realization of this promise, Memorialist solicits your Honorable Court either to grant him what the Commissioner recommended, viz. payment of the debt

admitted by the Commissioner and as he believes by the Board of Revenue to be justly due, or if this is impracticable, to put him again in the position he occupied before the Estate was bought in on the part of Government. That position was the result of a recourse to Law, and that Law, *the protection prepared by the Government itself for the safety of its subjects.*

Your Memorialist would respectfully submit that justice cannot be satisfied, if the Government is itself a bar to the possession of rights declared by its own Courts of Law, or if it repudiates the opinion of its own Commissioner, and is itself the recipient of a benefit, derived by an act which had its origin in a confiding and obedient spirit on the part of one of its subjects.

The Revenue of the Guntoor Collectorate, nay of the whole country, is improving, and with such a state of things and the ability thus possessed by Government to repay itself gradually from the improving resources of the Vásireddi Estate, Memorialist feels confident that your Honorable Court will be desirous to support the views of your highest Legal Authorities in taking steps for liquidating a debt (subject to the deductions agreed upon) the justice of which has been so frequently admitted by Government Functionaries, and the nature of which is in a moment comprehended when it is borne in mind that it was partly contracted by the Zamíndár to defray the expenses of an appeal before the Queen's Privy Council in support of his own rights as sole Proprietor of the Vásireddi Estates.

See Appendix B.

Your Memorialist would only further add that the money was originally advanced to Rájá Vásireddi Rámanádha Bábu by M. Venkatáswámi Náyudu on the faith of the large extent of landed property in the possession of the said Zamíndár and the known value thereof, and as the same is now in the possession of Government, Memorialist has no means of recovering from him the large amount due to M. Venkatáswámi's Estate except through the liberality of your Honorable Court.

No. 167. ORDER THEREON, 31st May 1860, No. 896.

Ordered to be referred to the Board of Revenue for early and full report.

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

Copy to a Letter to Esq^r
5/6th July 1801 N°85

Mis Rs. 4 Oct 1860.
Rec^d.

N°166 & 167.

Revenue 1860 Depart^t

Pro: of Govt. 31st May.

N°974

From Messrs Line and Co.
Mil. Rs. 30 Jan^y 60.
Dated 7 } 3:14-
Rec^d 9 } May 1860.

Forward Copy of a Pet^n addressed to the Court of Directors in 1846 relating to the claim of late M. Vencatasawámi Naick on the Zamindar of Vaseredde, and, as his Assignees, request that they may be paid their demand by Govt who possess the Zamindári or that the compromise proposed in the matter by the Honble Walter Elliot may be fulfilled.
From Fy. by March/h C.R. 781.

N°896. 31st May

With an Order

N°896

Ordered to be referred to the Board of Revenue for early and full report.

Fort St. Geo.
31st May 1860.

11 Copies to the Board of Rev: Pd Fs. 18=