M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue — **DEPARTMENT.**

G.O. No. 93	Press ~~Mis.~~
68-69	
Dated 19—1—1860.	

Not to be folded or roughly handled

No. 68. Read the following Proceedings of the Board of Revenue, dated 12th January 1860, No. 157.

Read letter from the Collector of Masulipatam, dated 24th October 1859, No. 189.

(In Con. 28th October 1859, No. 5332.)

1. In this letter the Collector reports the institution of a suit against him by T. Gopia trustee of the Vencatachella Swami pagoda, situated at Gudur in the Baudar táluq of the Kristna district for the restoration of 5½ katties (acres 83·78) of land claimed as the endowment of the pagoda and Rupees 1,556-12-11 the mesne profits with interest of the same from Fasli 1261 to Fasli 1268.

O. S. No. 86 of 1859, Civil Court, Masulipatam.
T. Gopia, Plaintiff.
versus.
W. Knox, Esq., Collector, Defendant.

2. The case is similar to that brought successfully by the trustee of the Madhava Swami pagoda in the same place with the like object, and finally reviewed in Extract Minutes Consultation, 22d September 1858, No. 1291, Revenue Department.

In Consultation, 24th September 1858, *No.* 4296.

3. Mr. Oakes' register prepared about Fasli 1207, A. D. 1797-8, contains entries showing that the pagoda's ináms were bestowed (apparently by "Abdul Hussain Budshah") in Fasli 1168, A. D. 1758-9, and that Mr. Tudor, the Collector in Fasli 1202, A. D. 1792-3, ordered the renter of the Pargana to continue the ináms. The karnam's accounts from Fasli 1207 show that from that year, for some years subsequent to the permanent settlement, the produce of the ináms was deducted from the cowle or exempted from assessment. In Fasli 1219, the zamíndár assumed the land and gave a money allowance in lieu of it. In Fasli 1261, A. D. 1851-2, the Gudur estate passed by purchase into the possession of Government and the payments ceased. The claim of the pagoda was investigated by Mr. Ballard who recommended (as in the two other similar cases in Gudur) that land to the value of Rupees 120 per annum should be granted. The trustees, however, objected to this arrangement as inadequate.

4. The defence of the present suit on the same grounds as those urged in the similar action of the Madhava Swami trustee would have the same result, viz. the defeat of Government, and the Collector requests to be informed whether as ordered in paragraph 4 of Extract Minutes Consultation, 22d September 1858, Revenue Department, No. 1291, he shall demur to the Court's jurisdiction in the case.

In Consultation, 24th September 1858, *No.* 4296.

5. The Board have instructed Mr. Knox to prepare and submit a draft answer on this ground, and pending its receipt, they think it advisable to lay the papers before Government for consideration.

6. Circumstances have changed since the above order of Government was issued and proprietary rights are recognised and conferred on weaker titles than that of this pagoda, for its possession, however, originally obtained, is of very long standing, moreover, the bearing of Section XIV Regulation VII of 1817 on the plea of demurer ordered by Government may be differently viewed by the Courts, and lastly in paragraph 5 of Extract Minutes Consultation, 30th November 1855, Revenue Department, No. 1308, Government admitted the strength of the claim so far as to direct the grant of lands of equivalent value to the existing money allowances. It was indeed subsequently declared (Extract Minutes Consultation, 28th April 1856, Revenue Department, No. 427, paragraph 5) that this was conceded as a matter of favor rather than of right, but the concession virtually narrows the point at issue to the question whether the original lands (which in this case are ascertainable) shall be granted, or other lands equivalent to the allowance which the zamíndár substituted for the original endowment.

Vide paragraph 3 Extract Minutes Consultation, 28th April 1856, *Revenue Department, No.* 427.
In Consultation, 5th May 1856, *No.* 519.
In Consultation, 10th December 1855, *No.* 1436.
In Consultation, 5th May 1856, *No.* 519.

7. The Board do not hesitate to recommend the concession of plaintiff's demand, for its denial, as it seems to them, will subject Government to the imputation of taking advantage of the zamíndár's commutation to grant the pagoda less than it originally possessed. Nor do the Board see that the principle which Government are anxious to maintain, viz. their para-

mount right to investigate all inám titles is really endangered, for the title in this case has been fully investigated and the trustee really asks little, if any thing, more than Government voluntarily offered.

(A true Extract.)

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

No. 69. ORDER THEREON, 19th January 1860, No. 93.

Under the circumstances represented by the Board of Revenue in these Proceedings regarding the suit brought by the trustee of the Vencatachella Swami pagoda in the Kistna district against the Collector and agreeably to the opinion expressed by them, the Government resolve to comply with the Board's recommendation, and to direct that the proposed concession to the plaintiff's demand be made at once.

(Signed) T. PYCROFT,
Chief Secretary.

Rev Dept.

No 93.

Proceedings of the Madras Govt
Under date the 19th Jany 1860
Read the following Rep: of
the Bd of Revenue.

Reporting the particulars
of a Suit brought against the Coll
of Kistna Dist by J Gopia Trustee
of Vencatachella Swami Pagoda & recom
the concession of the Plaintiffs
demand (4 Cons under 12th Jany 1860 No 157)

Order thereon, 19th January 1860.

Under the circum-
stances represented by the
Board of Revenue in these
Proceedings regarding the
suit brought by the Trustee
of the Vencatachella Swami
Pagoda in the Kistna District
against the Coll[r] and agree-
-ably to the opinion ex-
-pressed by them, the Govt
resolve to comply with the

the Board's recommen=
=dation, and to direct
that the proposed con
=cession to the Plaintiffs
demand be made at
once.

10 Copies to the Bd. of Pub. Works Dec. 20

Revenue 1860 Depart.
Pro: of Govt 20th January.

No. 93.

Pro: of the Madras Govt
Dy 19th January 1860.

From the Bd of Rev 3d
Feby 1860 C. No. 265 & Cons.
28 Feby 60 No. 65-66
From Bd of Rev 5th March 60 (No 497
(Requisite necessary correction to be made)

Directing that the
proposed concession
to the demands in a
suit brought by the
Trustee of certain
Pagoda against the
Collector of Kistna
District, be made at
once.

Ly in a Letter to Engd
dy 4th June 1860 No 57.

G.O Lrs 5-7
28-9-5-8
21-22
29-4-56
20-21
2-9-56
5-2-5-3
1-6-58
19-20
4-12-5-5

No 68 & 69.