M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1616 Press ~~Mis.~~

174-175

Dated 12-8-1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 12th August 1861.

No. 174. Read the following Proceedings of the Board of Revenue, dated 28th June 1861, No. 3,365 :—

Read the following letter from G. THORNHILL, Esq., Acting Collector of the Kistna District, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Masulipatam, 10th June 1861, No. 133.

SIR,

1. With reference to the Endorsement passed by the Board on the Petition* No. 127 of 1860, submitted to Government by the inhabitants of Iyavarirudravaram, in the Kaikalúr Táluq in this District, I have the honor to state that the villagers of Iyavarirudravaram, Achavaram and Samalambapuram agreed to have the boundary dispute between them disposed of by causing the Agraháramdár of Iyavarirudravaram to walk the boundary. The Tahsíldár obtained their agreements in writing, and submitted them with his report, praying for orders to settle the dispute accordingly. The order was given to that effect to the Tahsíldár, who deputed one of his subordinates to the spot, and the boundary was walked by the Agraháramdár. No sooner, however, had the boundary been traced, than the Ryots of Samalambapuram disputed the correctness of the line laid down, and refused to affix their signatures to the Mahajar or general address.

* Herewith returned.

Dated 21st December 1858, No. 812.

2. The villagers of Tamaracolam, another adjoining village, also at the same time complained that the Agraháramdár had also encroached upon their land.

3. The Auchavaram villagers also subsequently petitioned, complaining that the boundary line was most unfairly walked by the Agraháramdár, who was stated to have gone into land regarding which there was no dispute.

4. The whole of the record of the case was referred to Mr. Ballard, Deputy Director of Revenue Settlement, who had requested that the dispute in question might be speedily settled for the demarcation of the villages. Mr. Ballard stated in his letter, dated 20th April 1860, No. 183, that all his endeavours to bring the villagers of Iyavarirudravaram, Samalambapuram, and Auchavaram to an amicable settlement, had failed; and that as the survey was rapidly progressing in the vicinity, and as the Petitioners all long refused to come to a settlement or to attend, he disposed of the dispute summarily. Copy of Mr. Ballard's letter and of the sketch plan which accompanied it, are herewith submitted.

	Katties.
Iyavarirudravaram	19 2/16
Samalambapuram	5 1/2
Auchavaram	11 1/2

5. Of the 36¾ Katties of land under dispute, the greatest part, as shown in the margin, was allotted to the Petitioners. The inhabitants of the three villages have ever since been cultivating and enjoying their lands as marked by Mr. Ballard.

1. Ordered to be submitted to Government, with reference to their Endorsement dated 15th May 1860.

2. The Board would recommend that the boundary summarily decided on by Mr. Ballard be adopted, as Petitioners appear to have neglected to attend the inquiry, although repeatedly called upon to do so. Should they consider themselves aggrieved, they have their remedy in a Civil Suit.

(A true Copy and Extract.)

(Signed) R. A. DALYELL, *Sub-Secretary.*

No. 175. ORDER THEREON, 12th August 1861, No. 1,616.

The Government resolve to request the Board of Revenue to state clearly the precise authority under which Mr. Ballard made the summary decision in question; if under Act XX of 1855, it should be explained how the Petitioners can seek redress by Civil Suit, supposing the Government decline to interfere in the case.

(Signed) J. D. SIM,

Secretary to Government.

right.

ACT No. XXVIII of 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 29th June 1860.)

An Act for the establishment and maintenance of Boundary Marks, and for facilitating the settlement of Boundary Disputes in the Presidency of Fort Saint George.

Preamble.

WHEREAS it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, and for facilitating the settlement of Boundary disputes and claims; It is enacted as follows:—

Repeal of Act XX of 1855.

I. Act XX of 1855 is hereby repealed.

Collector &c. to fix boundaries of fields &c., and to require owners or occupants to clear boundary line and form and maintain Boundary marks, &c.

II. It shall be lawful within the said Presidency for a Collector of Land Revenue, or person exercising the powers of Collector, or for any Revenue Settlement Officer, and also for any other Officer appointed by the Government for the purpose, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes (or for conducting and perpetuating a survey or a settlement of land revenue), to fix the boundaries of fields, holdings, estates, or villages, and to require the owner or occupant of the field, holding, or estate, or the headman (by whatever name designated) of the village, to clear the boundary line where overgrown with jungle, and also to set up, form, and maintain Boundary marks, of such materials, and in such number and manner, as may

be

Sub-Secretary.

Secretary to Government R. D. with a Letter and Plan.

be determined by such Officer under the direction of the Board of Revenue, or of the Director of Revenue Settlement, as the case may be, to be sufficient to distinguish the limits of the field, holding, estate, or village.

III. It shall further be lawful for such Officer aforesaid to call upon the owners or occupants of lands about to be surveyed, and also on all persons claiming to have any rights or interests in such lands, to register the rights and titles exercised or claimed by them in the lands, and to produce before him for inspection and registry all grants, title deeds, and other documents connected with their claims.

Collector to call upon owners or occupants to register and produce title deeds before survey.

IV. Any occupant or owner of land or other person whose attendance may be considered necessary for the purposes of this Act, who, on being summoned by such Officer aforesaid, shall refuse or fail to attend at the demarcation, measurement, or assessment of his field, holding, or estate, or for the determining and marking the village boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate, or property, or for the investigation and determination of any boundary—and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect, when called upon, to give any information in his power with respect to a boundary under enquiry—shall be liable, by order of such Officer aforesaid, to a fine not exceeding fifty Rupees, to be levied by warrant under the hand of the Officer imposing it, in the same manner as a fine imposed by a Magistrate for a misdemeanor, and with a like alternative of imprisonment in default, as defined in Act II of 1839.

Penalty for owner &c, refusing or failing to attend, and for any person making false statement, &c.

V. When a survey is in progress notices shall be served on the persons owning or occupying the fields, holdings, estates, or villages concerned, requiring them to clear the boundaries, and to set up, form, or repair, or to render such aid and labor as may be necessary to form or repair under the supervision of the Government Officers, such boundary marks as may be required, within a reasonable time; and in the event of such persons not being found in their village, the notice shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

Service of notices on owners and occupants.

VI. I

VI. In default of the owners or occupants of the fieelds, holdings, estates, or villages complying with such requisition, the said Officer may give directions for the erection and repair of the necessary Boundary marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages, in such manner as such Officer aforesaid may consider just, and shall be levied in the same manner as arrears of land revenue.

In default of compliance, Officer may order erection or repair of necessary marks at the expense of the owners or occupants.

VII. Whenever such owners or occupants of any fields, villages, holdings, or estates, may generally signify their wish for the Boundary marks to be erected on the part of Government and the cost to be charged to them, or where in arrangements for the demarcation of the general survey of a village, estate, talook, or district, it may appear to such Officer aforesaid to be desirable to undertake the demarcation of lands under a uniform system by the Officers of Government, the Officer aforesaid may proceed, without the previous notice prescribed in Section V, to the clearing of boundaries, and the erection and repair of the Boundary marks, and may recover the cost of the same, if unpaid, in the manner described in Section VI.

Procedure when owners or occupants require erection of boundary marks at their expense.

VIII. In the case of unoccupied fields, and of extensive hills and jungles in Government lands, the cost of marks for such fields, hills, and jungles, shall be charged to Government.

In the case of unoccupied fields &c., cost to be charged to Government.

IX. Any person convicted before a Magistrate or person exercising Magisterial powers of wilfully and without lawful excuse erasing, altering, removing, or injuring any Boundary marks whatsoever, whether established under this Act or otherwise existing, or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an Officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty Rupees for each mark so erased, removed, or injured, of which fine a portion not exceeding one-half may be awarded to the informer, and the remainder shall be chargeable with the cost of restoring the mark; the fine to be levied in the mode prescribed above in Section IV. Provided always that a Magisterial Officer shall have power to impose a fine under this Clause only to the amount to which he is competent to fine in misdemeanors

Penalty for erasing, &c, marks—a portion of which to be paid to informer.

Proviso.

misdemeanors under his general powers. Whenever it may not be possible to detect the person who erased, altered, removed, or injured such boundary or survey marks, the Officer as aforesaid may give directions for the restoration or repair of the marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands in such shares as may appear to him proper, or apportioned among the Ryots of the village in proportion to their land assessment, as he may consider just and equitable, the same to be levied in the manner prescribed above in Section VI.

Costs how to be recovered when offender is not known or unable to pay the fine.

X. If the parties interested in boundaries under dispute are desirous that the matter shall be referred to the final decision of one or more arbitrators, they may apply in writing to the Settlement or other Officer aforesaid either in person or by their agents especially authorized on their behalf, and the Settlement or other Officer aforesaid shall proceed to dispose of the case as hereafter provided.

Application for reference to arbitration.

XI. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Settlement or other Officer aforesaid, such Officer shall appoint the arbitrator or arbitrators.

Nomination and appointment of arbitrators.

XII. Where an equal number of arbitrators shall be appointed on each side, they shall collectively appoint another arbitrator to act with them, or in the event of their not agreeing or failing to appoint such further arbitrator, he shall be appointed by the Settlement or other Officer aforesaid—and in all matters the majority shall rule the decision.

Majority of arbitrators to rule the decision.

XIII. The Settlement or other Officer aforesaid shall, by an order under his signature, refer to the arbitrator or arbitrators the matters in dispute which he or they may be required to determine and shall fix such time as he may think reasonable for the delivery of the award the time so fixed being specified in the order.

Order of reference.

XIV. When

XIV. When a reference is made to arbitration by an order of the Settlement or other Officer, such Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the person so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Arbitrators to be furnished with information.

Summoning witnesses.

XV. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Settlement or other Officer aforesaid may enlarge the period for the delivery of the award, if he shall think proper. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Settlement or such other Officer aforesaid, unless the award shall have been made after the issue of an order by the Settlement or other Officer aforesaid superseding the arbitration and revoking the institution of the enquiry.

Extension of time for making award.

XVI. If, in any case of reference to arbitration by an order of the Settlement or other Officer, the arbitrator or arbitrators shall die, or refuse, or become incapable to act, it shall be lawful for the Settlement or other Officer to appoint a new arbitrator or arbitrators in the place of the person or persons so dying, or refusing or becoming incapable to act.

In case of death, incapacity, or refusal to act as arbitrators, others to be appointed instead.

XVII. When an award in any matter referred to arbitration shall be made, it shall be submitted to the Settlement or other Officer aforesaid under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and other records, or authenticated copies thereof relating to the matter.

Award how to be submitted to Settlement Officer.

XVIII. The

XVIII. The Settlement or other Officer may, on the application of either party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision.

Settlement Officer may on application modify or correct an award in certain cases.

XIX. In any of the following cases the Settlement or other Officer aforesaid shall have power to remit the award or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators upon such terms as he may think proper: (that is to say)—

In what cases Settlement Officer may remit the award or any of the matters referred to arbitration, for re-consideration.

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

If the award is so indefinite as to be incapable of execution;

If an objection to the legality of the award is apparent upon the face of the award.

XX. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators. Any application to set aside an award shall be made within ten days after the same has been submitted to the Settlement or other Officer aforesad.

Award not to be set aside except on ground of corruption.

Application to set aside the award.

XXI. If the Settlement or other Officer aforesaid shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid, and if no application shall have been made to set aside the award, or if the Settlement or other Officer as aforesaid shall have refused such application, the Settlement or other Officer aforesaid shall proceed to pass a decision according to the award, and after duly furnishing the parties with a copy thereof, he shall proceed to mark out the boundary in accordance therewith subject to the provisions contained in this Act. In every case the decision given according to the award shall be final

Boundary to be marked out according to award.

XXII. Where

XXII. Where the claims and disputes relate to the occupancy of Ryots of Zemindary and Proprietary lands, the consent in writing of the Settlement or other Officer aforesaid on behalf of Government and of the Zemindars or Proprietors interested, shall be necessary for referring the disposal of such claims and disputes to arbitration, and the question of the disputed extent of such Zemindary estate shall be determined as between the Zemindar or Proprietor on one part, and the Government on the other, the Government being represented by the Collector, Settlement or other Officer aforesaid.

Reference to arbitration of claims and disputes regarding occupancy by Ryots of Zemindary lands, &c.

XXIII. The Settlement or other Officer aforesaid shall not be considered incompetent by virtue of his office to undertake the duty of an arbitrator in cases in which the conflicting parties may be desirous to nominate him as such.

Settlement Officer not incompetent to act as arbitrator.

XXIV. A certified copy of every decision passed in accordance with the award of arbitrators under this Act by such Officer aforesaid shall be forwarded by him to the Civil Court and be filed on its records.

A certified copy of every decision passed in accordance with the award, to be filed in the Civil Court.

XXV. Where the conflicting parties may not signify their agreement to refer the dispute to the final decision of arbitrators, or where any of the parties interested or concerned shall after due notice fail to attend for the investigation of the same, the Settlement or other Officer aforesaid shall proceed to investigate the claims, and in the case of any party failing to attend as aforesaid, shall make an *ex parte* investigation and after examination of the witnesses and documents shall record his decision, and the grounds for arriving at it, and after duly informing the parties of the same, he shall proceed to mark out the requisite boundaries in accordance with the decision, which, subject to the revision of the authority to whom the said Officer is immediately subordinate, shall be considered as the determination of all claims and disputes until set aside by a formal decree of a Civil Court. An appeal shall lie to the Civil Courts from this decision by regular suit, provided it be preferred within two calendar months from the passing of the same. Provided also that it shall be lawful for the Governor in Council, on just and reasonable cause for the same being shown, to extend the period for such appeal within such further period as may seem proper, and an order or endorsement

Procedure when parties do not agree to refer their dispute to arbitration, &c.

Proviso.

endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the Civil Court to entertain such appeal beyond the limit above specified.

Proceedings of Officers imposing charges or fines.

XXVI. The proceedings of Officers imposing charges or fines other than Magisterial, under Sections IV, VI, VII, and IX of this Act, shall be recorded in writing, and shall be subject to revision by the authorities to whom such Officers shall be immediately subordinate. An appeal shall also lie to the Board of Revenue or to the Director of Revenue Settlement, according to the authority to which the Officer imposing the charge or fine may be subordinate.

Appropriation of fines.

XXVII. All fines levied under this Act shall be carried to the credit of Government, except when otherwise provided.

Officers empowered to enter and examine private lands.

XXVIII. It shall be lawful for all Officers of Survey and Assessment, Revenue Officers, or other persons appointed by the Government for the purpose of investigating, settling, or marking boundaries of fields, holdings, villages, and estates, or measuring and assessing the same, and for all persons acting in aid and under orders of such Officers, whenever it may be necessary in the performance of their duty—to enter, examine, or measure, without let or hindrance, all lands whatever, whether such lands be the property of Government or of private Companies or individuals; and such Officers aforesaid, as well as workmen or other persons acting in aid of and under their orders, are hereby indemnified for what they or any of them shall do under the provisions of this Act.

Punishment for obstructing Officers, &c.

XXIX. If any person shall obstruct, molest, or in any way interfere with any public servant conducting the demarcation, measurement, or assessment of lands, or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate or person exercising Magisterial powers, to a fine not exceeding fifty Rupees, or in default, imprisonment not exceeding two months for the first offence, and for a repeated offence, to a fine not exceeding one hundred and fifty Rupees, or imprisonment not exceeding six months. Provided however

Proviso.

that a Magisterial Officer shall have power to punish under this Clause, only to the extent to which he is empowered to punish in cases of ordinary misdemeanor, under his general powers.

XXX. It

Government may invest any subordinate in the Revenue or Survey Department with powers under this Act.

XXX. It shall be lawful for the Governor in Council to invest any of the Subordinates of the ordinary Revenue establishments, or of the Settlement or Survey Departments, with any portion of the powers conferred under this Act.

Powers of Deputy Directors of Revenue Settlement.

XXXI. Any Deputy Director of Revenue Settlement, being a Sub-Collector and Joint Magistrate, shall be competent to exercise within the District within which he shall be employed, any of the powers ordinarily exercised by a Sub-Collector and Joint Magistrate within his charge: provided however that such Deputy Director shall only have cognizance of cases and offences connected with the duties of the Survey or the Settlement Department. In cases coming under Regulation IX. 1822 of the Madras Code tried before a Deputy Director under this Section, the power of control and revision provided by Clause 3 Section III Regulation VII. 1828 of the same Code shall be exercised by the Director of Revenue Settlement.

Servants of the Survey and Settlement Departments subject to Regulations IX. 1822 and VII. 1828.

XXXII. All Servants of the Survey and Settlement Departments shall be subject to the provisions of the said Regulations IX. 1822 and VII. 1828 of the Madras Code, and those Regulations shall apply to the Survey and Settlement Departments in the same way as they apply to the ordinary Revenue Department.

Two preceding Sections to apply to all pending cases.

XXXIII. The provisions of the two preceding Sections shall apply to all cases not finally decided at the time of the passing of this Act.

Rs 1817/62.

No. 3,365.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 28th June 1861.

Read the following letter from G. THORNHILL, Esq., Acting Collector of the Kistna District, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Masulipatam, 10th June 1861, No. 133:—

* Herewith returned.

1. With reference to the Endorsement passed by the Board on the Petition* No. 127 of 1860, submitted to Government by the inhabitants of Iyavarirudravaram, in the Kaikalur Taluq in this District, I have the honor to state that the villagers of Iyavarirudravaram, Achavaram and Samalambapuram agreed to have the boundary dispute between them disposed of by causing the Agraharamdar of Iyavarirudravaram to walk the boundary. The Tahsildar obtained their agreements in writing, and submitted them with his report, praying for orders to settle the dispute accordingly. The order was given to that effect to the Tahsildar, who deputed one of his subordinates to the spot, and the boundary was walked by the Agraharamdar. No sooner, however, had the boundary been traced, than the Ryots of Samalambapuram disputed the correctness of the line laid down, and refused to affix their signatures to the Mahajar or general address.

Dated 21st Dec. 1858, No. 812.

2. The villagers of Tamaracolam, another adjoining village, also at the same time complained that the Agraharamdar had also encroached upon their land.

3. The Auchavaram villagers also subsequently petitioned, complaining that the boundary line was most unfairly walked by the Agraharamdar, who was stated to have gone into land regarding which there was no dispute.

4. The whole of the record of the case was referred to Mr. Ballard, Deputy Director of Revenue Settlement, who had requested that the dispute in question might be speedily settled for the demarcation of the villages. Mr. Ballard stated in his letter dated 20th April 1860, No. 183, that all his endeavours to bring the villagers of Iyavarirudravaram, Samalambapuram, and Auchavaram to an amicable settlement, had failed; and that as the survey was rapidly progressing in the vicinity, and as the Petitioners all along refused to come to a settlement or to attend, he disposed of the dispute summarily. Copy of Mr. Ballard's letter and of the sketch plan which accompanied it, are herewith submitted.

	Katties.
Iyavarirudravaram	$19\frac{12}{16}$
Samalambapuram	$5\frac{1}{2}$
Auchavaram	$11\frac{1}{2}$

5. Of the $36\frac{3}{4}$ Katties of land under dispute, the greatest part, as shewn in the margin, was allotted to the Petitioners. The inhabitants of the three villages have ever since been cultivating and enjoying their lands as marked by Mr. Ballard.

ENCLOSURE No. 1.

ABSTRACT.—Copy of a letter from Mr. Ballard, dated 20th April 1860, No. 183.

---

1. Ordered to be submitted to Government, with reference to their Endorsement dated 15th May 1860.

2. The Board would recommend that the Boundary summarily decided on by Mr. Ballard be adopted as Petitioners appear to have neglected to attend the inquiry, although repeatedly called upon to do so. Should they consider themselves aggrieved, they have their remedy in a Civil suit.

(A true Copy and Extract.)

W. Walyell

Sub-Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D., with a Letter and Plan.

Copy to G. Thornhill, Esq., Acting Collector of the Kistna District.

Exd. J. Wright.

(8)

Revenue 1861 Department
Proc: of Govt. for August

No. 1817

PROCEEDINGS of the BOARD of REVENUE,

Dated 28th *June* 1861.
Despatched. 18 July
Received. 29th
Cr. 4 Augt.

Encl. Collector's 11 Returned

No. 3,365.

From Dr. L. 21st Augt/61
C. No 2079

Submitting a letter from the Collector of Kistna, reporting on Petition No. 127, of 1860.

No. 174 & 175.

No. 1616. 12th Augt.
Written under

No 1616

Has Govt. resolve to request the Board of Revenue to state clearly the precise authority under which Mr Ballard made the summary decision in question; if under Act XX of 1855, it should be explained how the Petitioners case seek redress by civil suit, supposing the Govt. decline to interfere in the case.

Sd/-

For Lt. Gov.
12th Augt 1861

14 Copies by the Board of Revenue. With 11 Rets.
When res
Mr Ravenscroft
Has Decision been changed
if Sum how no Measure taken D—
Sd/-

Dispd 18