M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1804	Press ~~Mis.~~
105-106	
Dated 11-8-	1867.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 11*th September* 1861.

No. 115. Read the following Proceedings of the Board of Revenue, dated 6th July 1861, No. 3,558 :—

Read again letter from the Collector of Madras, dated 15th February and 28th May 1861, Nos. 41 and 166.

(In Cons. 19th February and 30th May 1861, Nos. 1,046 and 3,306.)

Read also the following letter from the same Officer, dated 27th June 1861, No. 203.

With reference to the 1st paragraph of the Board's Proceedings of the 10th instant, No. 3,010, received this day, I have the honor to state that the fine of 100 Rupees levied from M. Sami Nayak, Tahsíldár of the Kanjivaram Táluq, having already been carried to the credit of Government, the compensation of Rupees 48-9-10 alluded to in the Board's Proceedings, can only be paid from the fine in question, on the special sanction of Government.

In Cons. 10th December 1860, No. 6,432.

Ordered that the above letters and the Board's Proceedings on the two first be submitted to Government, with reference to their Proceedings dated 8th December 1860, No. 2,346, Revenue Department, and with a request that the Collector be authorized to disburse the compensation awarded to the parties amounting to Rupees 48-9-10 from the Government Treasury, the fine of Rupees 100 levied on the Tahsíldár, and out of which it was intended to make the compensation, having been already carried to the credit of Government.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary,*

No. 116. ORDER THEREON, 11th September 1861, No. 1,804.

The payment sanctioned.

(Signed) J. D. SIM,

Secretary to Government.

In Cons. 19th February 1861, No. 1,046.

From B. CUNLIFFE, Esq., Collector of MADRAS,

dated Saidapet, 15th February 1861, No. 41.

As directed in the Board's Proceedings of the 10th November last, No. 5,219, I have the honor to submit the further information called for in reference to the parties who are responsible for the sale of the land of Vizaya Ragava Mudali of Aminjicaray in the Saidapet Taluq.

2. Vizaya Ragava Mudali's first petition to the Board, referred to the Collector for disposal, was rejected by him under an endorsement, dated 6th August 1859, intimating to the petitioner that his property would be destrained in default of the payment of the fees.

3. His second petition bearing the endorsement of the Board, dated 17th September 1859, calling for further report, was received in this office on the 27th idem. This petition simply referred to the disputed fees and to the attachment by the Tahsildar of the petitioner's picotta. After some attempt to find out from the Huzur records the particulars connected with the petitioner's liability to the fees, the petition was sent to the Tahsildar to furnish the information required. The Tahsildar reported on the 29th November 1859, that the Karnams were not in possession of the requisite accounts. In the meanwhile, the Tahsildar had furnished, on the 10th September, a list of lands which he proposed to sell on account of arrears of revenue, of which the petitioner's was one. But it was entered in the name of one Murugesa Mudali who was the registered proprietor of the garden, and as the petitioner had made no allusion whatever to any attachment of land, it was impossible to discover in the Collector's office that it had reference to the petition under enquiry. The Tahsildar's list did not distinguish the balances due on account of rent, from those due on account of fees, because both are really payable to Government, the fees having been deducted in the patta of a Ryot, who pays them to the village officer, though it would have been better if he had made the distinction. The list was in due course submitted to the Board, whose orders for the sale were received on the 21st October. The Tahsildar sold the land under notice on the 20th December. The petitioner complained to the Collector on the subject on the 24th idem. It was then, for the first time, that the Collector's office became aware of the petitioner's connection with the land. The Tahsildar having been called upon for an explanation, stated that the Collector's first endorsement of the 6th August 1859, authorised the collection of the fees by distraint, and that subsequently, he being simply required to furnish certain information on the Board's petition, he did not consider it necessary to refrain from selling the land; and upon a further reference, he explained that the transfer of the land by Murugesa Mudali to the petitioner was not registered by him, as there was a balance of Revenue due on it.

4. The matter being under the Board's enquiry, the land should not have been sold; but I attribute the sale to an oversight, and not to an intentional disregard of the Board's appellate authority, and the responsibility of the entire transactions rests rather upon him than on the Huzur establishment.

5. Some months after the removal of the Tahsildar Sami Naik to another Taluq, his successor sent a list of lands sold for arrears, and applied for certificates. That for the petitioner's land was furnished amongst others through the remissness of the Huzur Gumastah, Govinda Row, whose duty it was to prepare such documents, although he had been directed by the Sheristadar not to prepare one for this land. The Gumastah not having been acquainted with the contents of the petition, appears to have been misled by the land being in another's name.

6. The chief ground of the proposed cancelment of the sale is that the land, being held on a "quit-rent bill," is not liable to any demand in excess of that originally exhibited in the bill, and that consequently the recent entry of the proportionate charge for the fees of village officers, and their realization in default of payment, by distraint, were both illegal.

7. I see now that my use of the expression of "quit-rent gardens" in my letter of the 25th of September last, without further explanation, has misled the Board, and caused the inference by them that the gardens were held, as in Madras, upon a Government grant or Permission Certificate, which, as the lessee executes a counterpart, is a covenant between the parties, and the rent reserved in it cannot be raised, except in the case of the Presidency, of the holding having increased in extent.

8. I used the word "quit-rent" as that is the heading of the bill, one of which accompanies this letter, and the term was at first correctly used in relation with the few properties in the Saidapet Taluq, and adjoining the Presidency which were held on a grant; but these bills have been extended, and erroneously in my opinion, to lands first held on simple patta, but which having been transferred to East Indians and Europeans, the form of lease was changed to suit their convenience, as the demand is once made at the conclusion of the Fasli.

9. The Board will see, however, that this quit-rent bill is based on no grant or counterpart, and carries with it no more immunities than the ordinary patta possesses.

10. I must now bring to the notice of the Board, the enlarged dimensions lately assumed by a system, the existence in a small degree of which was known, but the rapid growth of which was apparently beyond the knowledge of the Huzur establishment, viz., the issue of what are styled kraya thotta pattas, or "pattas for lands obtained by purchase" (from Mirassidars); and around these, it seems that the owner had only to throw an hedge, and then to take out this form of patta, which made him liable only to the survey assessment on the land payable under all circumstances, but free from increased charge under the rules of the district, for how many soever his crops, or whether dry land had been converted into wet by means of Government water.

11. At this rate, the whole Saidapet Taluq might become permanently settled, and the Government forfeit their rights, and surrender their water rate.

12. As the system seems to me so subversive of the usual revenue practice, and as it has I believe never received the Board's sanction, I would recommend that it be peremptorily prohibited in future, and that these leases being a deviation from the ordinary rules of the district, and not having been recognised by higher authority, should be cancelled and that the common patta be reverted to with respect to them, leaving quit-rent bills to be issued only in the case of Government grants.

13. Up to Fasli 1266, the number of quit-rent bills, exclusive of those connected with Government grants, amounted to about 1,292 Rupees of assessment; but in Fasli 1267 the Tahsildar advised that these bills should be substituted for certain kraya thotta pattas, and in this manner petitioner obtained his bill in Fasli 1267, in lieu of the kraya thotta patta before received. There was a supposed advantage in this kind of bill, inasmuch as the demand was not collected by instalments but at one period, and that too at the conclusion of the Fasli, and these bills have now increased to the large sum entered marginally.

	Rs.
Fasli 1266	1,292
„ 1267	4,414
„ 1268	1,412
„ 1269	121
	7,239

14. Petitioner declares that he never paid these fees before; but it is probable that he did so under the kraya thotta patta, as they were due and received under these leases, and even had he evaded them, he would be doing no more than has often been done under the common patta (prior to the fees being entered in them); but no claim for exemption can be set up under such [illegible] payment.

15. The plea that the garden needed not the Karnam's supervision, cannot be admitted; for if a pattadar keeps his lands waste, he would be equally liable to the fees.

16. These are not from the melvaram only, but also from that portion of the gross produce set apart for certain fees, before the Government demand was fixed; the Government are therefore interested in them, equally with those taken from the melvaram, and both kinds of fees should be entered in the patta if it is the wish, as I presume that it is, of the Government so to realise them. The manner of paying them to the village servant, adopted in this district, is that of deducting them from the patta of a Ryot, selected by the village officer, who receives them from him, and these are collected proportionately in the patta of each Ryot.

17. I presume also that we are to continue enforcing payment, if necessary, by distraint and sale; for, let the inability to do so be known, and the Government will have no return for their double payment, though in future moveable and not real property may be made responsible for these fees.

18. As the kraya thotta pattas and quit-rent bills amount now to some 7,556 Rupees, if they are declared exempt from payment of fees, the emoluments of the village officers will be seriously diminished, and fall to almost nothing in some villages; and it becomes a question whether the Government should not make up the loss to them, as the lands under the survey were liable to the fees, and the village officers have not forfeited their right to them.

19. If the demand against petitioner be declared illegal, the collection of it from so many others must also be refunded; but if, as I advise, the Board direct the cancelment of the kraya thotta pattas and quit-rent bills, and the substitution of the simple patta, petitioner's land will pay these fees in future.

20. He and a very few others have resisted the demand out of many who have discharged it, and as the Board and Government have cancelled the sale, I do not now seek any change in that decision, though under the detailed explanation now afforded, I hope that the late Collectors' proceedings will not be considered illegal, and that I shall be desired only to restore the land to the petitioner, returning his outlay to the late purchaser without offering compensation to the former. I think that under the orders of the Board, thus modified, I should be enabled to effect this arrangement, as no real injury will have been inflicted upon the parties; and should petitioner, from the absence of compensation, resort to a civil suit, I think that I could successfully defend it, seeing that the quit-rent bill was not founded upon a formal lease, and differed only in name from the usual patta.

21. The sale of the land might be upheld, for under the survey, the assessment included these fees, and only by the unauthorised procedure of the subordinate revenue authorities, has a specious claim for exemption been created.

22. The original merah accounts for petitioner's village are not forthcoming; but Mr. Freese's commutation, based upon such original particulars is extant, and petitioner has been charged upon them.

23. The sum due by him is small in amount, and the matter might be closed for this year by the Board's last orders, was it not that many others, similarly circumstanced, have paid the fees, and therefore that they should be collected from the petitioner who will doubtless forthwith discharge them, when he finds the Board adverse to his claim for exemption.

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Enc. 1.—Bill.

Exd. J. Tulloch.

No. 1,779.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th April 1861.

Read letter from the Collector of Madras, dated 15th February 1861, No. 41.

(In Cons. 19th February 1861, No. 1,046.)

1. In this letter the Collector explains that the sale of the Petitioner's land in spite of his appeal to the Board against the distraint, took place in consequence of the land having been entered in one name, and the appeal made in another.

2. The Board cannot accept the explanation as at all satisfactory, and they consider the conduct of the late Tahsildar Sami Naik to have been very reprehensible throughout, and think that the carelessness described in paragraph 5 by which a certificate of sale was issued renders the Goomastah Govindan deserving of severe punishment which the Collector will accordingly inflict.

3. The Collector argues that although the land was held under what was termed a quit-rent Bill this should only be regarded as a Puttah, inasmuch as it was obtained, in Fasli 1267 only, in lieu of what is known as a "Kriya Tota puttah," under an unauthorized system which has sprung up and spread in the District of late years. The Board are at a loss to understand how this departure from the usual practice could have taken place if a proper supervision had been maintained by the late Collector.

4. The question of legalizing the collection of Fees payable to Government Village Officers has been recently submitted to Government by the Board. They do not, therefore, deem it necessary to revert to this subject in these Proceedings, as under any point of view they consider that this sale of land could not be upheld in a Court of Law.

5. The Board do not suppose that either the Petitioner or the purchaser of the land have suffered any material pecuniary loss; but they are not disposed to allow a case of this kind to pass as a mere blunder, nor do they think that Government should bear the expense of setting matters right. They propose, therefore, that a fine of 100 Rupees, or more if necessary, should be imposed on the Tahsildar "Sami Naik" who is the most culpable party, and that suitable compensation should be paid to the purchaser and the Petitioner.

6. The Collector is, therefore, requested to inform the Board what amount of compensation the purchaser is willing to take upon giving up the land, and what sum may be fairly paid to the Petitioner for the loss and trouble he has been put to.

7. The Collector will take immediate steps to substitute ordinary Puttahs for the quit-rent Bills which have been issued in place of the old "Kriya Tota puttahs" and will discontinue the practice of issuing such again.

(A true Extract.)

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

To B. Cunliffe, Esq., Collector of Madras.

Exd. J. Wright.

Enclosure 1 in Proceedings of the Board of Revenue to the Secretary to Govt. P. D. dated 6th April 1861. No. 3,558.

Encl. 1st Cor.

Letter from the Collector of Madras to the Board of Revenue dated 15th February 1861. No. 41- Forwarding Tahsildar Sammy Naiken-

1861. Enclosure

1861 Dated 10th June

Enclosure 2 in Proceedings
of the Board of Revenue
& Mr. Secretary to Govt
R. D. dated 6th July
1861. No. 3558.

Read

Board's Proceedings of
Mr. Collector of Madras
dated 6th April 1861
No. 1779 - regarding
Tahsildar, Sami Naya

No. 3,010.

Proceedings of the Board of Revenue, dated 10th June 1861.

Read the following letter from B. CUNLIFFE, Esq., Collector of Madras, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Saidapet, 28th May 1861, No. 166:—

1. Adverting to the 6th paragraph of the Board's Proceedings of the 6th ultimo, No. 1,779, I have the honor to state that the purchaser, Ramasami Reddi, of the quarter Kani of land belonging to one Murugasa Mudali, which was in the enjoyment of Vijaiyaraghava Mudali of Aminjikarai, has expressed his willingness to relinquish the land, at a compensation of Rupees 18-9-10, as particularized in the margin, whilst the Petitioner Vijaiyaraghava Mudali, who was in the enjoyment of the land alluded to, demands 30 Rupees as detailed also in the margin, on account of the loss and trouble he has been put to, consequent on the land having been attached and sold. I request the permission of the Board to disburse the money to the parties.

Assessment on the quarter Kani of land, for Fasli 1269, Rupees	0	9	10
Amount of purchase money	8	0	0
Bandy hire for going to the Taluq Kacheri 2 or 3 times to purchase the land, and to pay the purchase money, &c.	10	0	0
Total Rupees.	18	9	10

For writing several Petitions both to the Collector and the Board for cart hire and batta for going to the Board's Office, and the Huzur Kacheri, as well as for the loss he has sustained in allowing the plants on this quarter Kani of land to wither, Rupees 30.

2. As directed in the 2nd paragraph, I have recovered the fine of Rupees 100 from the Tahsildar Sami Nayadu, and the Gumasta Govindu was mulcted in half his month's pay.

3. Adverting to the 7th paragraph, I have issued the requisite orders for the preparation of ordinary Puttas, in lieu of "Keruya Tota Puttas," and have included the Meras therein.

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1. The Board directed "a fine of Rupees 100 or more if necessary" to be imposed on Sami Naik intending that all compensation should be paid from this source. The Collector will therefore be good enough to pay the compensation claimed, viz., Rupees 48-9-10, and to credit the balance of the fine to Government.

2. The Collector's proceedings in fining Gumastah Govindu, and taking measures for the substitution of ordinary Puttahs for the "Keruya Tota Puttahs" are approved.

(A true Copy and Extract.)

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

To B. Cunliffe, Esq., Collector of Madras.

Exd. J. Wright.

Enclosure 2 in Proceedings of the Board of Revenue & the Secretary to Government P.D. dated 6th July 1861 No. 3558.

1861 Dr. Sims

Rs. 16 9 6

Letter from the Collector of Madras to the Board of Revenue dated 28th May 1861 No. 166 regarding Tahsildar Sammy Naidoo and Revenue Proceedings thereon.

No. 3,558.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th July 1861.

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(In Cons. 19th February and 30th May 1861, Nos. 1,046 and 3,306.)

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Ordered that the above letters and the Board's Proceedings on the two first be submitted to Government, with reference to their Proceedings dated 8th December 1860, No. 2,346, Revenue Department, and with a request that the Collector be authorized to disburse the compensation awarded to the parties amounting to Rupees 48-9-10 from the Government Treasury, the fine of Rupees 100 levied on the Tahsildar, and out of which it was intended to make the compensation, having been already carried to the credit of Government.

In Cons. 10th December 1860, No. 6,432.

(A true Copy and Extract.)

Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.

Copy to B. Cunliffe, Esq., Collector of Madras.

Exd. J. Wright.

P. Pro. 8 Dec. 1860 Nos. 121. 122.

(3)

Revenue 1861 Department

Pro: of Govt for Sept.

No. 1696.

PROCEEDINGS of the BOARD of REVENUE.

Dated 6th July 1861.

Despatched. 15th

Received. 18th

Encl: 1 Cover

No. 3,558.

Submitting with recommendation a letter from the Collector of Madras, requesting sanction for disbursing the compensation awarded to certain parties out of the fine levied on the Tahsildar of Kaupvaram.

No: 115 & 116.

Oct. Sept. R 10.

With an order
No: 1804. 11th Sept.

1804

Wk The payment sanctioned

For A. Reese 14th
11th Sept. 1861

I. D. S

14 Copies - Board of Rev: with an Rech. Pap. 12
3 " Acct. General.
3 " Civil Paymaster