M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2117 — Press / Mis.

62 63

Dated 5 - 11 - 1861.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 5th November 1861.

No. 62. Read the following Proceedings of the Board of Revenue, dated 11th September 1861, No. 4,936:—

Read again letters from the Collector of North Arcot, dated 27th November 1860, and 15th July 1861, Nos. 287 and 156.

(In Cons. 29th November 1860, and 18th July 1861, Nos. 6,237 and 4,444.)

Read also the following letter from the same Officer, dated 14th August 1861, No. 200.

1. I have the honor to acknowledge the receipt of the Board's Proceedings, dated 30th July 1861, No. 4,089, calling for more detailed explanation in regard to the compensation claim of the Kallur Shrótriumdár than my letter therein reviewed supplies.

2. Where land has been appropriated for public roads, &c., it has hitherto been the practice in this District to make a permanent proportionate reduction in the Jódi, and to refund all assessment collected subsequently to the date on which it was so taken up. To neither of these adjustments is the term compensation properly speaking applicable, and it was probably out of some such view that the Board have ruled in the more recent cases of the kind referred to them, that mere reduction of the Jódi and refund of collections could not be considered to satisfy the claim, inasmuch as there are besides the proprietary right thus recognized, the right of occupancy and indemnification claim for loss of improvements to be provided for in their settlement.

3. These views of course found expression in the references to the Talúqs for the particulars required to give them effect, and have since gained such general publicity through the District that no present or future claimant is ever likely again to omit through ignorance any one single item in his demand.

4. This is just as it should be, and is merely mentioned in explanation of how it comes that the Shrótriumdár in the instance of which I now speak is no longer content with the terms offered to him under the former practice of the District.

5. The re-adjustment of the Jódi and refund of collections are mere acts of bare justice; and the real question of compensation arises in the item of demand made by right of occupancy. As landlord the Shrótriumdár is compensated by the reduction of the Jódi, but as occupant besides he has profits in the Kudiváram which will vary according to the terms under which he has his land cultivated. To this consideration, must be added the contingency that as farm stock and capital accumulated, the land so lost to the proprietor might have been gradually improved and raised in value, and that his social position and estimation being in some measure dependant on the extent of his estate, some allowance should be made on this account in awarding compensation.

6. Since the reduction of assessment in 1857, and the release of private enterprise from official interference, landed property has risen in value throughout the District, and in the more favored localities, land that used to be worth from Rupees 75 to Rupees 100 the cawny will now readily fetch Rupees 200 to Rupees 300 in the market. The land in the Shrótrium of which there is now question is not first class, but it has good means of irrigation and is susceptible of further improvement.

7. Were the Shrótriumdár to dispose of his right of occupancy, he would almost with certainty be able to make better terms for himself than those I have recommended, and would in addition be entitled as landlord to receive rent from the Ryot who entered on occupation.

8. In the 2nd paragraph of their Proceedings under reply, the Board observe that for the purposes of the Income Tax the profits of Ryots from their lands are assumed at one-third of the Government assessment, and that judged by this standard my proposal in the present case is extravagant beyond knowledge in regard to ordinary arable land in India.

9. For the purpose of the Income Tax and in connection with other fiscal questions, the profits of the Ryot have it is true been assumed at one-third of the Government demand, but this standard I both hope and believe falls short of actual gains in the case of this District, where besides the causes already noticed, high prices and accessible markets must have materially enhanced the profits of those directly engaged in agriculture.

10. I do not know that I quite follow the Board's arguments, but the question now is how many years value of the assessment of the land taken up for the road amounting at the old taram rates to Rupees 15-4-3 shall be awarded?

11. Revised at an average of the new rates, the assessment would be a trifle over Rupees 10 which would raise my proposal from ten years to 15 years value of the same. By so much as the assessment is reduced would the occupant be a clear gainer; and as the landlord and occupant are in the present case one and the same person, I argue that if 10 years' value of the assessment be considered fair (as I think it is) my proposal may be accepted whether tested by the old or new rates of assessment.

12. I have already explained in my letter of the 15th July 1861, No. 156, that it has been the practice in this District to allow six years' value of the assessment for Nanja land, and four years' value for Punja taken up in Shrótriums and Polliams for Railway purposes, whilst in the Zamíndáries 10 years' value of the assessment has been paid for all land without distinction, besides a permanent deduction from the Peshkash and refund of assessment from the date the land was taken up to that of adjustment. The Board have themselves sanctioned such a mode of adjustment* in the case of some land in the Karvetnuger Zamíndári, a circumstance which had probably come to the ear of the Shrótriumdár of whose claim there is now question, and has led him to the natural conclusion that he too should be treated with on the same terms.

* Vide Proceedings, dated 29th September 1859, No. 3,908.

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1. Ordered that the above papers be submitted to Government for orders. In the Shrótrium village of Kallur in Chendragiri Táluq three *cawnies* of wet and dry lands under cultivation, and bearing an assessment of Rupees 15-4-3 were taken up in Fasli 1265 for a road then under construction from Chittoor to Kirkumbadi.

2. Compensation has yet to be made to the Shrótriumdár for loss of the assessment, and also, as in this instance he happens to be also the proprietor of the land, for the profits derived from the land after paying the assessment on it.

3. For the former purpose the Collector recommends that a reduction of Jódi to the full amount of the assessment on the land be allowed to the Shrótriumdár in arrears from Fasli 1266 inclusive, which will result in a present payment of Rupees 76-5-3 for five years in arrears, and the reduction of the Jódi in future from Rupees 258-14-8 its present amount to Rupees 243-10-5.

4. The Board recommend that the arrangement be sanctioned.

5. When the Collector's proposal was originally received, the Board called on him to calculate the compensation due for profits derived from the lands by the proprietor in excess of the assessment which was payable on them to the representative of Government, and in his reply, the Collector has proposed to value these profits at 10 years' assessment of Rupees 152-10-6, being at the rate of Rupees 50-14-2-per *cawny*.

6. The Board have pointed out to Mr. Robinson that the principle of this estimate is inapplicable to the circumstances of the case, but he seems unable to recognize the distinction drawn by them, as to the basis on which the calculation should proceed, and maintains that the amount named by him is reasonable, as it may well be, though arrived at by a wrong process.

7. There certainly seems no reason to believe that Rupees 50 per *cawny* is too high an estimate of the value of good land under cultivation, including both wet and dry, and the Board, therefore, recommend that the Collector be authorized to pay to the Shrótriumdár as proprietor of the lands, Rupees 152-10-6, in full of all demands.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, *Secretary*.

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No. 63. ORDER THEREON, 5th November 1861, No. 2,117.

1. The Governor in Council considers that under the circumstances of the case, the sum proposed by the Collector as compensation is not unreasonable. He therefore authorizes the

Proceedings of the Madras Government, Revenue Department, 5th November 1861.

disbursement to the Shrótriumdár of Rupees 152-10-6, as the value of three cawnies of wet and dry land taken up for a road in the village of Kullur.

2. The Jódi will, as proposed in paragraph 3, be reduced from Rupees 258-14-8 to Rupees 243-10-5, with effect from date of the appropriation of the land by Government. The arrears for the five years from Fasli 1266 to 1270, both inclusive, amounting, at Rupees 15-4-3 per annum, to Rupees 76-5-3, will be made good to the Shrótriumdár.

(Signed) J. D. SIM,

Secretary to Government.

No. 5,703.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th December 1860.

Read the following letter from J. D. ROBINSON, Esq., Acting Collector of North Arcot, to W. HUDLESTON, Esq., Acting Secretary to the Board of Revenue, Fort Saint George, dated Chittoor, 27th November 1860, No. 287 :—

1. In Fasli 1265, soon after the 2nd crop had been harvested, and before agricultural operations had commenced for the ensuing season, certain lands belonging to the Shrotrium village of Kalur in Chendragiri Taluk, were taken up for a road then being constructed from Chittoor to Karkambadi, and about the close of the same year (1856) the Shrotriumdars Karra Ramia, &c., presented an Arzi to the Tahsildar of the Taluk praying that compensation should be paid to them for the ground so appropriated.

Description of land.	Kanis.	Assessment.
Dry.....	2 7 4	5 15 5
Wet.....	0 8 12	9 4 10
	3 0 0	15 4 3

2. An inquiry was eventually held by the Tahsildar who reported results to Mr. Whittingham on the 30th September 1857. In margin are shown the particulars of land so taken up with the assessments they bear, as rendered in the Tahsildar's report. The account was sent to the District Engineer to be checked and reported by that Officer correct, as far as the mensuration was concerned.

3. The lands in question were at the time actually cultivated by the Shrotriumdars, and contained neither Porumboke nor Inam. There were no trees nor wells on them, nor any substantial improvement beyond that they were clear and cultivable.

4. Some doubts having arisen in respect to the rates of assessment, the Tahsildar was called upon to forward the Survey accounts, which he ultimately did after a very great delay. On comparing these with the Tahsildar's returns both were found to correspond.

5. With this explanation, I beg to request that sanction may be obtained to disburse to the Shrotriumdars the sum of Rupees 61-1, being the compensation due for 4 years calculated from Fasli 1266 up to Fasli 1269; and to deduct permanently the sum of Rupees 15-4-3 from the annual Jodi (258-14-8), which will thus become, from Fasli 1270, Rupees 243-10-5.

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1. The Acting Collector's recommendation is that the Shrotriumdar shall be recompensed for the loss of the land in the amount of its assessment, but he could have equitably claimed this had the land been in the occupation of another, while the occupant would also have had a claim as such, and also as proprietor if that right vested in him.

2. In the present instance the Shrotriumdar himself was in occupation, whether as tenant only or as landlord and tenant does not appear, but in either case it would seem that the Collector's recommendation will not fully compensate him for his losses. The Board request Mr. Robinson's further consideration of the case, and in his reply to these Proceedings he will please to state distinctly whether the Shrotriumdar is willing to accept the amount proposed in full of all demands.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Acting Secretary.

To J. D. Robinson, Esq., Acting Collector of North Arcot.

Exd. J. Wright.

1861. Departt.

Rec 2286/61

Enclosure in Proceedings
of the Board of Revenue &
the Secretary to Govt. Ry.
dated 11th September 1861.
No 4936.

Letter from the Collr.
Collector of North Arcot &
the Board of Revenue dated
24th November 1860 No 287.
Regarding compensation of
lands taken up for certain
roads - and Board's Proc.
Madras, dated 6th December 1860
No 5703.

No. 4,089.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 30th July 1861.

Read the following letter from J. D. ROBINSON, Esq., Collector of North Arcot, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated Palmanair, 15th July 1861, No. 156:—

1. Adverting to their Proceedings, dated 6th December 1860, No. 5,703, I have the honor to inform the Board that from subsequent local inquiry it has been ascertained that the Shrotriemdar is landlord as well as tenant of the property in question, and that he now declines to accept, in full of all demands, the terms recommended by me on his original application, viz., the permanent deduction of Rupees 15-4-3 from the Jodi, and Rupees 61-1 the compensation for four years calculated from Faslis 1266 to 1269, and claims the further sum of Rupees 152-10-6, or 10 years' assessment of the lands appropriated for the public road.

2. The cultivators of these lands have admitted in a deposition taken before the Tahsildar, that they have no rights whatever in the soil, nor any claim to compensation, as they merely cultivate crop by crop under the direction and by the consent of the Shrotriemdar.

3. And here I should observe that what appears to me a very indefensible and unfair distinction has hitherto been drawn in this District between lands taken up for Railway purposes, and lands appropriated for public roads. In the former case, it has been the practice to pay compensation on all Circar Shrotriem, Polliem, and Zemindari lands, the proprietors under the first of these tenures receiving six years' assessment of the land if Nunjah, and four years' assessment if Punja, where the land is Polliput or Zemindari, compensation has been allowed on the same terms in respect of the claim of occupancy, and in addition a permanent deduction been made from the Jodi in consideration of the proprietary right. Zemindars on the other hand received more liberal treatment, and have been allowed 10 years' assessment of the land whether irrigable or non-irrigable, besides getting a permanent remission on their Peshkush.

4. But when land has been appropriated for roads, no compensatory provision at all seems to have been made where these were Aiyen; whilst in the case of Shrotriem and Polliput appropriations, the proprietary right alone has been regarded and a proportionate reduction made from the Jodi, leaving tenancy or occupancy claims entirely out of the computation. In the Zemindari tracts no lands, I may here observe, have up to this time been taken up for public roads.

5. Act VI of 1857 draws no such distinctions, nor are they defensible in reason or justice. These anomalies in practice should now disappear, and it will be for the Board to consider whether the treatment of such claims should longer be left to the mere local usage which obtains in the particular District in which they arise, or whether it should not rather be regulated by some uniform and intelligible principle, such as that on which the acquisition of land under the Freehold rules now rests. The adoption of some such universal limit would doubtless be attended with greater expense to the State, but good policy and justice seem to recommend it. In the case of the Shrotriemdar of whom there is present question, the claim should I think be admitted; and I, therefore, beg to recommend that he be allowed compensation at the rate of 10 years' assessment of the lands of which he has been deprived.

	RS.	A.	P.
Compensation at 10 years' assessment.....	152	10	6
Five years' assessment of the lands appropriated.	76	5	3
	228	15	9

6. If the Government so decide, the amount that would now have to be disbursed to him would be Rupees 228-15-9.

7. The quit rent payable from Fasli 1271 would, as already shown in my letter of the 27th November 1860, No. 287, be Rupees 243-10-5, that being the balance of the old Jodi, Rupees 258-14-8, after deducting the assessment of the land taken up for the road amounting to Rupees 15-4-3.

Department 1861.

No.

PROCEEDINGS of the BOARD of REVENUE.

Dated 30th July 1861.

No. 4,089.

Requesting more detailed information before recommending to Government his suggestion of paying to certain Shrotriemdar as compensation, 10 years' Assessment on lands taken for public purposes.

1. Mr. Robinson appears to the Board to have accepted the demand of the Shrotriemdar with too little scrutiny, or at least has in no way explained to the Board why he considers his demands fair and reasonable. The Shrotriemdar was in any case entitled to a remission of Jodi equivalent to that assessment on the land, which as Shrotriemdar he could have collected from the Ryot proprietor, but as he was in this case himself the proprietor, he is also entitled to compensation for loss of profits as such, that is for the profits that would have remained to the proprietor after payment of the assessment due to the Shrotriemdar, had the land belonged to a Ryot. The Shrotriemdar claims the amount of 10 years' assessment on the land as compensation for these last profits, in addition to the remission of Jodi from the date of the land being taken for public purposes, and Mr. Robinson recommends that compensation be awarded to this extent without at all explaining why he considers it equitable. *Prima facie* it appears to the Board excessive.

2. For the purposes of the Income tax, the profits of Ryots from their lands are assumed at one-third of the Government assessment, and at this rate the Collector's proposal would be to pay 30 years' value for those profits, or in fact 30 years' rent for the land, which is extravagant beyond knowledge in regard to ordinary arable land in India. But even supposing that the assessment had been revised on the principles now being applied, under which the assessment is designed to be not more than two-thirds of the net produce, still the Collector's proposal would be equivalent to 20 years' purchase of the land, and there is nothing to show that this is on an average the selling rate of the locality.

3. The Board must have more detailed information before they can submit their recommendations to Government.

4. They fully agree with the Collector that in every case *all* rights invaded by the appropriation of land for public purposes should be purchased, but the compensation must be calculated on some intelligible principle, and not merely based on the demands of the parties concerned.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary,

To J. D. Robinson, Esq., Collector of North Arcot.

Exd. J. Wright.

1861, Department.

Rect. of Govt for 4 Vols

No. 2286

PROCEEDINGS of the BOARD of REVENUE,

Dated 11*th September* 1861.
Despatched. 24 Oct
Received. 25

No. 4,936.

Submitting a letter from the Collector of North Arcot forwarding a detailed explanation in regard to the compensation claimed Kallur Shotriemdar for lands taken up for roads and recommending the grant of certain compensation.

No 2117

The Governor in Council consi

that under the circumstances of the case, th
sum proposed by the Collector as compe
=sation is not unreasonable. He therefor
authorizes the disbursement to the Shot
=dar of Rupees 152-10-6, as the value of th
Kanis of wet and dry land taken up
a road in the village of Kalur.

2 The Jodi will as proposed
peara 3 be reduced from Rupees 258-14
Rupees 243-10-5, with effect from date o
appropriation of the land by Governm
The arrears for the five years from Fa
1265 to 1270, both inclusive, amounting
Rupees 15-4-3 per annum, to Rupees
will be made good to the Shotriyamd

Fort St George
8th Nov 61
14 Copies Rd of Rev Dis 25
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3 Civil Pay