M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1329	Press / Mis.
244-245	
Dated 17-6-	1862.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 17th June 1862.

No. 244. Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 12th June 1862 :—

SIR,

1. I am directed by the Board of Revenue to submit the following circumstances for the information of Government.

2. The purchaser of a Táluq Abkarry farm in the Nellore District became a defaulter, and on the re-sale a loss resulted of some Rupees 35,000 on the whole term of five years, for which he was liable under the letter of the Law.

3. He, however, had recourse to every expedient to evade this liability which it seems evident he was altogether incompetent to meet, and among other devices, he instituted a suit against the Collector in which he was cast with costs as Government are already aware from the correspondence noted in the margin.

Board's Proceedings, dated 16th October 1861, No. 5,689.
G. O. dated 21st October 1861, No. 2,021.
Board's Proceedings, dated 23rd December 1861, No. 7,178.

4. Subsequently his property was distrained and sold to the extent of some Rupees 600, and on the Collector proceeding to take measures for his arrest, and incarceration, the defaulter took refuge in the Supreme Court limits and has applied for protection under the Insolvent Act.

5. The Board see no ground for believing that he was actuated by fraudulent intent or that he is concealing any property, and they are therefore averse to pressing his liability upon him individually, but it appeared to them very questionable whether the Judges of the Insolvent Court have jurisdiction in matters relating to revenue or are competent to test the validity of a Revenue liability or to release the defaulter from it, and protect him against the action of Government for the recovery of its dues, and on general grounds they deem it very objectionable that such interference should be permitted if not authorized. On this point therefore which they view as one of great importance, they requested the Acting Government Solicitor to take the opinion of the Advocate General, copy of which I have the honor to forward herewith.

6. It will be seen that Mr. Smyth deems the ground of objection untenable, although he considers it much to be regretted that it is so, but the Board observe that the Act II, Vict. Cap. 21 under which the Insolvent Courts for India were constituted, expressly declares in Section 62 that no debt to the Queen shall be discharged or affected by any thing done under the Act, and viewing the Insolvent's default as essentially a debt to the Queen, the Board have requested the Acting Government Solicitor to take measures for bringing the objection under the consideration of the Judges at the hearing of the Petition. The Board regret that as this is fixed for 13th instant, they were unable to refer the point again to the Advocate General for re-consideration, or to take the orders of Government on the subject, but they trust the urgency of the case and the danger of a most inconvenient precedent being possibly established will be deemed sufficient justification for the course they have adopted.

No. 245. ORDER THEREON, 17th June 1862, No. 1,320.

The Board's Proceedings are approved.

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

discharge

No. 7,178.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd December 1861.

Read the following letter from J. W. B. DYKES, Esq., Collector of Nellore, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Chepauk, dated 12th December 1861, No. 269:—

1. The Government Pleader having informed me that decision has been given in favor of Government, in Original Suit No. 1 of 1861, brought by the Guduru Abkarry defaulter, I have the honor, with reference to my letter of the 22nd ultimo, No. 245, to request permission to sell the property of the said defaulter Boddula Krishnasamy Nayadu now under attachment.

2. As regards the second Suit brought by Boddula Ragavalu Nayadu, the Guduru defaulter's brother, decision has been given against Government, with costs in the Plaintiff's favor; and I trust to be able to address the Board on this point in detail by the end of the week.

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1. If no appeal is made from the Court's decree, the Collector can proceed to sell the property now under attachment.

2. He will suspend action till the expiration of the appeal time.

(A true Copy and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. W. B. Dykes, Esq., Collector of Nellore.

Exd. J. Wright.

Enclosure N.2 in a letter
from the Secretary to the
Board of Revenue to the
Secretary to Government
Revenue Department dated
12th June 1862. N.—

Rev=1685/62.

Letter from the Collr
of Nellore to the Secretary
to the Board of Revenue
dated 12th Dec. 1814 N.269
and Board's Proceedings
thereon.—

discharge" in respect of all Demands
"inserted in his Schedule or established
"ed in the same Court;" and Section
II. which contains the several grounds
of opposition (those noticed in the
Government Solicitors draft, and
others not applicable to this Case)
makes no reference whatever to matters
Concerning the Revenue.

Save & Except therefore
that the foregoing objection is clearly
untenable, though I think it is to be
regretted that it is so.

(Signed) R. Andrews Lang.tt
Advocate General.

June 4th 1862.

(True Copy)
(Signed) John Muller
A.G. Govt. Solicitor.

(True Copy)

R. Andrews
Secretary.

They have adopted.

Revenue Board Office
Madras,
12th June 1862

I have the honor to be
Sir,
Your most obedient servant.

[signature]
Secretary.

To
F. E. Sim Esqr
Secretary to Government
Revenue Department.

[signature]
Capt. M. Balakistnamah.

Proceedings of a Letter from the Secretary to the Board of Revenue to the Secretary to Government (Revenue Department) dated 12th June 1862 No.

Read 1656 Ditto.

Copy of Opinion.

[illegible]

Nº 1329.

The Bonds &c. -

Certificates are approved

L Nº S.

Revenue 1862 Dep.
Sec. of Govt for Rmnd
Nº 1685.

The Secretary to the
Board of Revenue

To The Secretary to
Government
Revenue Dept.

Dated 12th
Recd 12th
Regd 13th June 1862.

Sir

I am directed by the Commissioners to acknowledge the receipt of your letter No 1329 dated 17th Instant forwarding for the sanction of Government the Bonds executed by the undermentioned persons who have applied for the benefit of the Encumbered Act -

Nº 1329 - 17th June
With one Cover

Fort St. George
17th June 1862

To Chief Secretary to the
Govt of Fort St. George
Dispatch
Nº 244 & 245.