M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1372 Press ~~(Mis.)~~

328-329

Dated 23-6-1862

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 23rd June 1862.

No. 328. Read the following Proceedings of the Board of Revenue, dated 17th May 1862, No. 3,185 :—

Read the following letter from E. G. R. FANE, Esq., Collector of Vizagapatam, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, Madras, dated 11th April 1862, No. 263.

SIR,

No. 99 of 1862. 1. In reply to the Board's Endorsement, dated 11th ultimo, on Petition noted in the margin, I have the honor to state that my decision in this case was passed under Rule VII of the old Agency Rules.

2. In the Petition of Mooteyalroydu, dated the 13th July 1861, to the address of the Sudder Adalat, it is stated that Mr. Reade had first ordered a Punchayet to be convened, but subsequently countermanded the order; that subsequently in 1860, I had ordered a new Punchayet to assemble to divide the property, &c. Such is not a true state of the case as is shown below.

3. On the 6th February 1857, Mooteyalroydoo (Appellant) applied to the Agent (Mr. Smollett), to divide his father's whole Estate, real and personal, into four shares, viz., 1, to himself; 2, to Ramanna, his brother; and 3 and 4 to his nephews Gumbheraidoo and Mungiah; and he (Mooteyalroydu) to be allowed to be the Manager. Mr. Smollett advised the parties to compromise matters through the Head of Police of Marunghi. In February 1858, Mr. Reade ordered the Head of Police of Marunghi to assemble a Punchayet to settle the disputes that had, since Mr. Smollett's time, sprung up between Mooteyalroydu and his three relations above mentioned, the Head of Police acting as umpire.

4. On 6th June 1859, the Head of Police summoned the Complainants and Defendants, and took a writing from them to say that they would abide by the Punchayetdars' decision. Each party named two individuals, viz. :—

1. Bhara Narainappa,	By Mooteyalroydu, &c., Defendants.
2. Jillalla Appia,	
3. Cakerala Venkutnursimlu,	By Gumbheraidu, &c., Complainants.
4. Bahara Ratha Cristamma,	

5. Accordingly the four individuals above-named assembled and gave a decision in the case; those for Mooteyalroydu were of opinion that the Estate of Santhosharaidu, should be divided into six shares between 1, Mooteyalroydu; 2, Ramana; 3, Gumbheraidu; 4, Mungiah; 5, Latchia; 6, Venkanna and Ramaswami, sons of Gopamma. But the Punchayetdars of Complainants objected to the Estate being divided into more than four shares, and called attention to Mooteyalaroydu's own application in February 1857, in which he had made a request to that effect. The Head of Police of Marunghi, who had the deciding vote, sided with the latter, and submitted the whole proceedings under date the 25th June 1859.

6. Mr. Reade, by whom these Proceedings were received, declined acting upon the decision until a certain Civil suit against the Estate was disposed of, but Mr. Reade having shortly after left the District, no further proceedings were taken by him. Since the death of Santhosharaidu, Mooteyalroydu had been allowed to remain the guardian of the Estate, and it was probably Mr. Reade's object in not enforcing the decision of the Punchayet, and thereby dividing the property and in leaving Mooteyalroydu Manager, to satisfy the claims of the Civil Suit, if adverse to the Estate.

7. In 1860, when I visited Parvettipur, it was represented to me by Gumbheraidu, and others, that Mooteyalroydu was making away with the property of the Estate, and as upon inquiry, I was satisfied that this was the case, and after personally discussing the questions at issue with all the parties concerned, I passed the decision* to which exception is now taken. I may also here mention that I had the consent of the Marunghi Zamíndár, the Plaintiff in the Civil suit, to make the division.

* Vide copy sent with my letter of the 15th August 1860, No. 836.

8. In my letter to Head of Police of Marunghi to carry out my decision, I directed that not only should the division of property be made according to the decree of the former Pun-

the seventh of the old Agency

chayetdars, but that their opinion should be also taken as to rights of M. Lutchia and the sons of Gopamma. The Punchayetdars recommended that six garces of land be allowed to the sons of Gopamma for their maintenance, and nothing to Lutchia, as his adoption was a doubtful one. The quantity of land was accordingly ordered to be made over; the lands to have only a life interest therein.

9. Much stress is laid in the Petition above referred to upon the Mokassa's antiquity, and the tenure of the Estate. These grants are, however, *subsequent* to the permanent settlement, and were even on service tenure, and are resumable therefore, or otherwise, at the pleasure of the granters upon the death or misconduct of the grantee, so that in continuing the Mokassas to the heirs of Santhosharaidu, a great favor was done by the Marunghi Zamíndár.

See enclosure A.

1. Ordered to be submitted to Government, with reference to their Order on Petition No. 99 of 1862, dated 17th February 1862.

2. Mr. Fane reports that the case was decided under Rule VII of the old Agency Rules, which directs the Agent to encourage parties to decide their disputes by private arbitration or Punchayet.

3. The Board consider that though Mr. Fane's proceedings have been somewhat irregular, his decision is substantially correct, and they have already declined to interfere in the matter in their Proceedings, dated 29th August 1860, No. 3,943.

4. The Board presume that the Sudder Adalat declined to take up Petitioners' appeal, as the Petitioners had already appealed in the Revenue Department.

(A true Copy and Extract.)

(Signed) C. G. MASTER, *Acting Sub-Secretary.*

No. 329.

ORDER THEREON, 23rd June 1862, No. 1,372.

1. With the above Proceedings the Board submit the reply of the Collector of Vizagapatam to an order of Government on Petition No. 9 of 1862, appealing against a decision of the Collector and Agent.

* G. O. 5th June 1861, No. 725, Judicial Department.

2. The original appeal of the Petitioners was forwarded* to the Sudder Court for disposal under the 31st of the Revised Agency Rules; but the Judges, having ascertained that the decision complained of had been passed in the Revenue Department, refused to interfere on the ground that the orders of Revenue authorities are not subject to appeal in their Court. Under these circumstances the Government found it necessary to call on the† Collector to name distinctly the Regulation under which he acted.

† G. O. 17th February 1862, No 9. R. D.

3. Mr. Fane now names the seventh of the old Agency Rules a rule that applies exclusively to civil cases, and merely directs the Agent to *encourage* a reference of such disputes to arbitration. The Government cannot understand how this could be made the basis of any Revenue Proceedings, and they are equally at a loss to conceive the grounds upon which a case purely of a civil nature, and involving the partition of important property, could have been considered disposable summarily in the Revenue Department.

4. The mere fact of an order being signed by Mr. Fane as Collector, if the order be clearly beyond his Revenue jurisdiction, cannot, in the opinion of His Excellency in Council, render it less the subject of an appeal. In this aspect the case will be re-submitted for the consideration of the Sudder Judges, with an intimation that Mr. Fane's statement that it was determined in Revenue Department is clearly erroneous.

(Signed) P. P. HUTCHINS,

Acting Deputy Secretary to Government.

Proceedings of the Madras Govt under date the 23d June 1862

Read Proc^s of the Bd of Revenue

dd 13th inst No 1372

submitting with remarks a letter from the Collector of Vizagapatam, reporting on Petition No 9 of 1862 regarding the division of certain property.

Rec^d Entd 17 May 62, No 3185

With the above proceedings the Board submit the reply of the Collector of Vizagapatam to an order of Govt on Petition No 9 of 1862, appealing against decision of the Collector & Agent.

2. The original appeal of the Petitioners was forwarded to the Sudder Court for disposal under the 31st of the Revised Agency Rules, but the Judges, having ascertained that the decision complained of had been passed in the Revenue Department, refused to interfere on the ground that the orders of Revenue authorities are not subject to appeal in their Court. Under these circumstances the Govt found it necessary to call on the Collector to name distinctly the Regulation under which he acted.

*G.O. 5 June 61, No 725, Jud. Dept

G.O. 17th Feb. 1862, No 9 R.D.

3. Mr. Fane now names the seventh of the old Agency

proceedings & other agents as illegal & may consider

M.H. 13 June

Rules - a rule that applies exclusively to civil cases, and directs the Agent to encourage a reference of such disputes to arbitration. The Govt cannot understand how this could be made the basis of any Revenue Proceedings, and they are equally at a loss to conceive the grounds upon which a case purely of a civil nature, and involving the partition of important property could have been considered disposable summarily in the Rev: department

4. The mere fact of an order being signed by Mr Jane as Collector, if the order be clearly beyond his Revenue Jurisdiction, can not, in the opinion of H.E. in C., render it less the subject of an appeal. In this instance the case will be remitted with an intimation for the consideration of the Lower Judges. If they shall find Mr Jane's statement that it was determined in Rev: Dept to interfere, it will become necessary to take a legal opinion as to the power of Govt to modify a summary

4 Office of Secretary to Govt
11 — Asst
5 — Dept
— Dr Secretary

Nos 328 & 329.

Passing orders on Board's Proceedings submitting Vizagapatam Collector's report on Petition No 9 of 1862 appealing against a decision of Collector and Govt.

Nos 1372.

& Nos of the Madras Govt
Dated 23rd June 1862.

Nos 1372 Dated
& Nos of Govt for June.