M.R.O. 14—13,000—27-9-24.

# MADRAS RECORD OFFICE.

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## Government of Madras.

## Revenue DEPARTMENT.

G.O. No. 2322- Press/Mis.

403 Mcoy

Dated 30-08-1926

**Not to be folded or roughly handled**

## *Proceedings of the Madras Government, Revenue Department, 30th October* 1862.

No. 403. Read the following letter from G. N. TAYLOR, Esq., Inám Commissioner, to J. D. SIM, Esq., Secretary to Government, Revenue Department, Fort Saint George, dated Coimbatore, 24th October 1862, No. 54:—

SIR,

1. In acknowledging the receipt of the Order of Government, dated 22nd September 1862, No. 2,057, I have the honor to state that in July last, while on privilege leave, I forwarded to the Honorable Mr. Maltby a memorandum of a few points relating to Ináms which seemed to require notice in the new Revenue Code. At that time, however, I had not had an opportunity of perusing the draft of the Code since published in the Gazette, I deem it therefore preferable, instead of simply referring Government to the former Memorandum, to notice the subject again in more immediate reference to the Code which is now under the consideration of the Legislative Council.

2. The points which require legislation as regards Ináms are:—

First. The mode in which arrears of quit-rent due upon Ináms are to be recovered.

Secondly. Powers to be exercised by Inámdárs for the recovery of revenue from their sub-tenants.

Thirdly. Rules according to which future sub-divisions of Ináms are to be regulated, whether sub-divided for the purpose of public sale on account of arrears of quit-rent, or in consequence of private transfers by the Inámdárs.

3. As regards the first point it is to be observed, that unenfranchised personal and service Ináms, which continue to be held on their former tenure, will, as heretofore, be liable to resumption, or such disposal as may be deemed proper by Government, for non-payment of the Jódi. But the quit-rent leviable in future upon enfranchised Ináms of a personal character, which are held under the permanent deeds issued by this Commission, must be realized by distraint and sale in the same manner as revenue due upon other descriptions of lands; and the general rules laid down in Chapter IV of the Draft Code under the head "Collection of the Land Assessment" seem adequate for the purpose. A doubt, however, may arise as to whether the term "Land Assessment" will include quit-rent payable on Ináms, and in order to obviate the necessity of the various constructions and nice distinctions which had to be made, founded upon the terms Láckeráz and Málguzári under the old Regulations, I beg to suggest that a new Section may be inserted in the Code before Section CCXXIV, or a leading Clause added to that Section, to the effect that "quit-rent on other favorable rent imposed upon Inám lands shall be recovered under the same rules as are laid down in this Chapter, so far as they may be applicable to those tenures." Or it may be even more convenient to have a general Section to the effect that "the words "Land Revenue" or "Assessment" in the Code shall include quit-rent or other favorable assessment imposed upon Inám lands." As the Title Deeds issued to Inámdárs do not specify any instalments for the payment of the quit-rent, it will be necessary also to provide in the Code that where no instalments are expressly laid down for the payment of any description of revenue or rent to Government, the ordinary Kistbandi of the District is to be observed in respect of such cases.

4. In regard to the second point I find that Chapter V of the Code, Vide Section CCXXXV, extends to all land-holders, Inámdárs, as well as others, the same powers of recovering Revenue from their sub-tenants by summary process; and the powers in question are conferred upon holders of small tracts of land, as well as upon the proprietors of larger estates comprising whole villages. In the event of the Small Cause Act IX of 1850 being extended to the Mufassal, it may perhaps be deserving of consideration whether a distinction cannot properly be drawn between land-holders claiming to recover an invariable tax of the nature described in CCLXVII of the proposed Code, and those claiming a private rent of a variable kind dependant upon their own agreements entered into from time to time, by restrictidg the powers conferred by Chapter V of the Revenue Code to the former description of land-holders as occupying the position of

Government in regard to the land revenue, and placing cases of the latter kind under the ordinary jurisdiction of the Small Cause Courts, as being more of the nature of a private contract. Whether such a distinction is drawn or not, I would advocate very strongly that no distinction may be made in this respect between land-holders who pay a revenue to Government and those who are wholly or partially exempted from its payments.

5. The third point is that to which the orders of Government now under acknowledgment refer. The portions of the Code relating to it are Sections LV to LVIII which would seem to apply to enfranchised personal Ináms held under a permanent deed, as well as to permanently settled estates held under the Sanad Istimrar. The principle of apportioning the assessment on the sub-divisions, with reference to their value, laid down in Section LVI is also applicable to Ináms of the abovementioned description. But the Code has no provisions defining the limits within which sub-divisions of such Ináms can be claimed and allowed as a matter of right. Section LVIII, which seems to stand in the place of Regulation I of 1819, does not retain the prohibition prescribed by that Regulation against sub-divisions less than an entire village or hamlet, but leaves in general terms sub-divisions of less than 500 Pogadas annual value to be confirmed or not at the discretion of the Board of Revenue. This Section, however, if applied to Ináms, which are generally of much smaller value, must leave them in a very uncertain position unless it is supplemented by other other rules defining to what extent and under what circumstances their sub-division will be permitted. It seems also necessary to consider the bearing of Sections CLXV, CLXVI and CLXVII, the former two of which would seem to admit of transfers of portions of land without any limit, from which Section CLXVII excludes only lands held under a Sanad Istimrar.

6. In my Memorandum I explained the reasons why I consider that there ought to be no restriction on the free sub-division and enjoyment of Ináms to such extent as is allowed by the law of the parties, save what may be essentially required for the protection of the interests of the State; as every such restriction would lead to a depreciation of the value of the land as private property. I now beg to submit for the consideration of Government the following rules on the subject.

7. The sub-division of enfranchised personal Ináms, held under permanent deeds, will be regulated by the following rules:—

*First.*—Where the Inám in question consists of tracts of lands forming a part of a village, it will be allowed to be sub-divided to the extent of an entire revenue field or number bearing a separate assessment on valuation in the public accounts, and the assessment on quit-rent on such sub-divisions will be fixed in proportion to such valuation. Where the fields are large, it will be at the discretion of the Board of Revenue to sanction their sub-division into smaller fields.

*Second.*—Where the Ináms in question consist of one or more entire villages, the Board of Revenue can at their discretion sanction their sub-division, the assessment or quit-rent upon such sub-divisions being fixed with reference to their value ascertained by such survey and classification as may be deemed necessary, which are to be made at the expense of the Inámdárs. Every sub-division so made shall be separately answerable for the assessment or quit-rent charged upon it, but shall be subject to such rules and regulations as may be framed by Government from time to time for the preservation or repair of the works of irrigation and for the management generally of the common concerns of the village.

*Third.*—Where a regular sub-division is not carried out, it shall nevertheless be the duty of the Collector to register, at the request of any of the parties concerned, the separate and divided rights enjoyed by the several sharers in the Inám, with the amount of assessment or quit-rent payable by each according to their own private arrangement, without however relieving them of the joint liability of the whole estate for the payment of the quit-rent or assessment charged upon it. Any parties dissatisfied with the correctness of suchregistration shall be at liberty to bring a suit within the ordinary period of limitation to obtain a modification of such registry. The Collector in making the collection of the quit-rent or assessment shall be guided by the above registration, and shall collect the quit-rent or assessment on each divided share separately.

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He will sell the share, if necessary, on its existing tenure, and can afterwards enforce the joint responsibility of the other shares to pay whatever balance may still remain against it. In doing so, however, the Collector shall in the first instance, and as far as practicable, hold that portion of the Estate answerable out of which the share in default was last sub-divided.

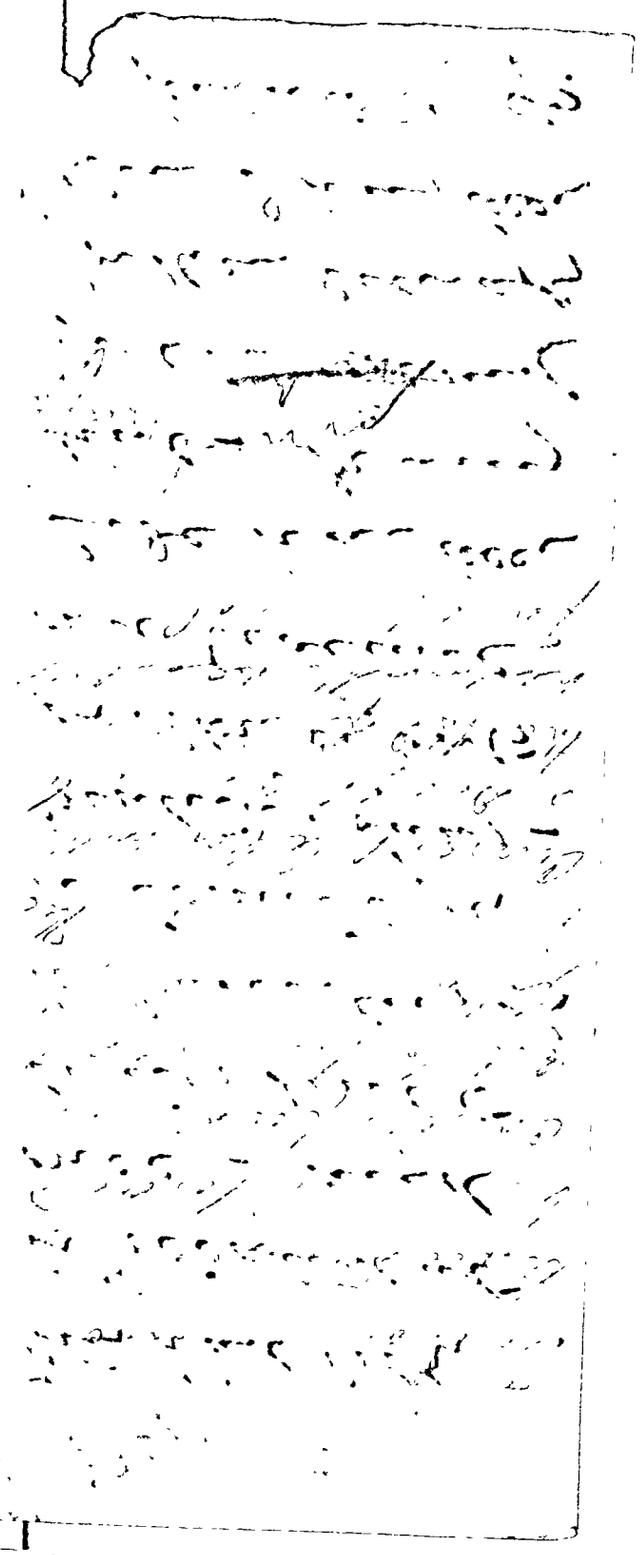
8. The reason of Rule I is obvious. In regard to Rules II and III, some explanation is necessary, while it is desirable that the free and absolute division of lands amongst the several sharers should be permitted to the fullest possible extent, it cannot be allowed without any limit, nor in all the various ways in which lands may be divided, assigned, and transferred by their private holders, without opening a door to fraud and the erroneous apportionment of the Government demand. There are several Inám villages in which Inámdárs possess a right only to the Government revenue, the lands being held by the cultivators in their own right; and in these cases sub-division of the Inám tenure may prove injurious to the interests of the cultivating land-holders. Again, the lands of an Inám village may be already held in divided shares by its holders who may not, however, desire to submit to a new apportionment of the demand. Yet in all these cases though an absolute division of the land is not required, it is desirable that the private rights of the land-holders should not be subjected to greater risk and restriction then are absolutely necessary for the protection of the Government revenue. The somewhat arbitrary enforcement of the principle of joint responsibility enunciated in Section VIII. Regulation 25 of 1802 has hitherto led to much injustice, and has induced share-holders in joint property purposely to fall into arrears with the object of defrauding their co-sharers of their rights. To meet all such cases as the above, the provision in Rule III is submitted for the consideration of Government. It will admit of the free and unrestricted enjoyment of rights in land acquired according to the law of the parties or under private contract, without attempting to regulate the division of land in a manner different from that allowed by the ordinary law and with sole reference to the convenience of Government as regards the revenue. It seems to me that Sections CV to CVIII can only be applied without injustice to those cases in which an Estate is held jointly without any partition of lands amongst the holders, and even in these cases it may be desirable to apply Rule III, above proposed, as far as practicable. But the bearing of the proposed rules upon the general provisions of the Revenue Code will, I presume, be fully discussed by the Select Committee of the Legislative Council.

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No. 404. ORDER THEREON, 30th October 1862, No. 2,322.

Referred to the Board of Revenue for their opinion, which should be submitted at an early date as the Select Committee are to report on the Draft Code on the 1st proximo.

(Signed) P. P. HUTCHINS,
*Acting Deputy Secretary to Government.*



2d September /62 No 416
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26-6-14

Revenue
Pro: Govt for 1862 Dett
No 2974.

To the Inam Commissr

To the Secretary to Govt
Revenue Department
Fort St George

Dated 24th
Rec'd 27th Octr 1862

No 54
No 2322. 31 Octr
Submits with his observations
certain points for all notices
in the new Revenue Code
in connection with Inam
and proposes rules for
the subdivision of Inam
as called for in the order of
Govt dated 22d Septr 1862
No 2054 - Collectorate Recd

No 403 & 404.

No 2322.

Referred to the
Board of Revenue for their
opinion which should be
submitted at an early date
as the Select Committee
are to report on the draft
Code in the 1st Proximo

Jno Hart
30th Oct 62

11 Apps To the Bd of Revl Dept 31st
Inam Commr