M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 2640 — Press Mis.

274 : 275

Dated 19 — 12 — 19 86.2

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 19th December 1862.

No. 274. Read the following Proceedings of the Board of Revenue, dated 18th November 1862 :—

Read Proceedings of the Madras Government, dated 29th October 1862, No. 1,784, Judicial Department.

(In Cons. 31st October 1862, No. 6,946.)

1. The Board of Revenue resolve to submit for the consideration of Government that Section 19, Act 10 of 1862, vests them with authority to adjudicate in doubtful cases as to the value of Stamps legally requisite; and that the interpretations to which the Tamil Translator refers are all on points connected with this branch of the subject, and with which the Board therefore considered themselves competent to deal. They gave their constructions on the doubtful points referred to, in compliance with a request made by the Malayalum Translator to Government, and their object in circulating their replies to the questions thus put to them was to induce uniformity of practice, in anticipation of appeals to them for an authoritative decision in individual cases, without any intention of dictating to the Government Translators.

2. On paragraph 6 of Mr. Chamier's letter, the Board need only remark that the ruling of the Sudder Udalut which he quotes, was issued prior to the enactment of either Act 36 of 1860 or Act 10 of 1862, both of which supersede the Court's ruling by a distinct provision as to the mode of valuing land forming the subject of Civil Suits.

3. With reference to paragraph 4 of the G. O. the Board beg leave to observe that their interpretation of Note B, Section 11, Schedule B, Act. X of 1862, is consonant with the terms of Section 3, Regulation III of 1802, and that they believe it to be identical in spirit with that of the G. O. inasmuch as dependant Talookdars and under-farmers in a Zemindary, are *renters of the public revenue* under the Zemindar.

4. The Board view the Ryots and the Ryots only, as "the actual proprietors" of all land in occupation, whether in Zemindaries or in Ryotwarry Districts, and in their case only do the Board consider that *rent*, properly so called, can arise.

(A true Extract.)

(Signed.) W. HUDLESTON, *Secretary.*

No. 275. ORDER THEREON, 19th December 1862, No. 2,640.

1. The Governor in Council is unable to concur with the Board in their argument that Section XIX of the Stamp Act, No. X of 1862, gives them any *general* power of authoritatively interpreting that law. The Section evidently applies exclusively to particular documents submitted for their adjudication under peculiar circumstances.

2. The Government resolve to refer to their legal adviser for an opinion as to the meaning to be attached to the words "annual aggregate produce of the land computed as payable by the dependant Talookdars, under-farmers, and Ryots" in Note (*b*) of Schedule B of Act X of 1862. This wording seems to the Government to have been specially designed to include all sums payable to the proprietor by every description of tenant in the Estate under litigation; but the question is purely a legal one.

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

The Malayalim
Translator asked the
Bd. to explain the
meaning of Note B.
Sect II. Schedule B
of the Stamp Act
X of 1862.
The Bd. did so & took
them Explanations &
all the Translators.
for "information &
guidance."
Thereupon the Tamil
Translator asked for
if he had to be "guided
by the Bd in his trans-
lation - pertained the
right of the Bd to
interpret the law
made. Whether the
circumstances of their
interpretation -
The Bd decided
1. That the Bd had

no right an Revenue-
-tively to interpret
the Act.

II. That the Boards
themselves, abiding
by first when they are
in doubt.

III. That the Govt. in-
-terpretation was par-
tially incorrect.

The Govt. now reply
as to the I.st point
above, they refer first
to Sect XIX of the
Act. But that Section
only provides that on
the application of
a party willing to
pay 10 Rs they may
decide what particular Stamp is
necessary for any
particular deed.
The Govt. seem to me
to make nine of
this Section than it

- I think the Board must take
- very general terms

Vide Para 19 given above

enter Declaration

- With regard to the 3rd point
the Govt. concur. as stated
Within the limits of the
Commissioner to the Board

+ however how to ad-
-minister the Act &
must therefore issue
instructions to a
certain extent "inter-
pret" the Laws but
where there is reasonable
room for doubt they
ought first to refer to
Govt in order that a
legal opinion may be
taken.

Sir. Govt. - It seems to
me to give them only
a special & defined,
not a general power
of decision - The 1st &
The II.d point do not concern them &
need not be referred
~~of course will be~~

The III.d point is the
important one -

The Act says that
in Madras they shall
of "land & paying re-
-venue" & not shall
be "assumed as
the amount of the
annual aggregate pro-
-duce of the land
computed as payable
by the dependent
Taloo Kdars, Under
Farmers and Ryots"
for the year of action.
The Malayalim Trans-
-lator asked what
this "annual aggre-
-gate produce" mean

i.e. whether the Assessment payable by ryots or the private rent payable to the proprietor.

The Bd answered "The reference is to the public revenue payable on the land & not to the private rent."

It remarked that though what the "ryot" paid would be the assessment or public revenue, yet what Talookdars & Underfarmers paid would be private rent.

The Bd then explain that their interpretation corresponds with Sect 3 Reg III of 1802 & is, they believe "identical in spirit" with the C.O. because "de-

-pendent Talookdars & under-farmers in a Zemindary are renters of the public revenue under the Zemindar" while "Ryots" only are "actual proprietors" & in their case only "rent properly so called can arise".

I much confess I cannot see my way through all this and the Bd's reasoning raises questions which at least are still undecided.

As regards assessed lands a Zemindar cannot exceed the fixed assessment - but as regards unassessed

landes many de-
-livered of Rent a Ze-
-mindar may sch
that he can - Again
Talookdar & Under-
-farmer do not ne-
-cessarily or even
usually pay the
Zemindar the full
"assessment for they
do not have a right
In both these cases the
Byl. definitions and
not fit

But I do not
my self see any
difficulty in the
Section - Its meaning
seems to be that it
in fact says - that
in a suit for land
the land shall be
valued at the ag-
-gregate annual pay-
-ments of every de-
-scription of occupant
or in other words the
entire receipts or
rental of the Pro-
-perty in litigation
an account of the
year in which the
suit is brought -

It will be seen
Notes /a & c/ of the Sch:
that land is dif-
-ferently valued in
Bengal & Bombay.
I am unable to state
why this should be
the case - The Madras
Rule is most adverse
to the Suitors & more
profitable to Govt. It
might be well to
ask the Bd why this
difference is made
& why it should be

Maintained.

I. D. S

Revenue 1862 Deptt
Pro: of Govt for December.
No 37

No: 2640.

Pro: of the Madras Govt.
Dt 19th December 1862.

Ch Dec 26

No. 2640.

Revenue Department

Proceedings of the Madras Government dated the 19th December 1862

Read the following Report of the Board of Revenue

(Here enter 18th Sept 62 Boy)

Replying to the order of Govt directing that the Board have no power to give an authoritative interpretation of Act X of 1862 more than of any other Act—

The Govt is unable to concur with the Bd in their argument that Sect XIX of the Stamp Act—No X of 1862—gives them any general power of authoritatively interpreting that law. The Section evidently applies to particular & clearly defined documents submitted for their adjudication under peculiar circumstances.

The Govt prefer to refer to their letter dated the 6th Sept 1862 for an opinion as to the meaning of the attached & the rest

"annual aggregate produce of the land cultivated as Rights by the dependents aforesaid during Minority and Rysts" in ~~Schedule~~ note (b) of Schedule B to Act X of 1862. The Pleading seems to the first. & have been specially alleged & include all sums payable to the proprietor by way of rent in the estate under litigation - But the question is purely a legal one.

S D S

Lieut 18-12-62

To Asst Collr & Dy Revr Dehra Doon
& Govt Solicitor

15/10/5

Judl.
A Pro. No. 1784
29-10-62 recorded in Book.

Revenue 1862 Departt.
Pro: of Govt for December

No. 2640.

Pro: of the Madras Govt.
Dd 19: December 1862.

From Govt Solicitor dd 2 Jany 63 No 1.

Proceedings Board of Revenue regarding authoratively interpreting by them the Stamps Law, with orders thereon.

No 274 & 275.