

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1178	Press
	56.57	~~Mis.~~
Dated	8. 7 -	1863

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
3rd July 1863.*

Read the following:—

No. 56. Proceedings of the Board of Revenue, dated 30th March 1863, No. 1,869.

Read the following letter from D. F. CARMICHAEL, Esq., Acting Agent to the Governor Vizagapatam, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Jeypore, 19th February 1863, No. 59.

SIR,

1. I have the honor to report on the Board's Petition No. 532 of 1862.
2. The land, the subject of litigation, is part in the Nagur Agraharum in the Kurupam Zemindary, and is entered as Inám in the permanent Settlement accounts in the name of the 1st Defendant's grandfather.
3. The 1st Defendant and his father mortgaged the land to Petitioners, the Bond being conditioned for re-payment of the loan by annual instalments. The stipulation not having been fulfilled, Petitioners have filed a Suit in the Sitanagaram District Moonsiff's Court to foreclose, and I recommend that a certificate under Regulation IV of 1831 may be granted to Petitioners.

ENCLOSURE No. 1.—Petition.

The Board require further information in regard to this Inám. The Collector recommends that its alienation from the family of the original grantee be permitted, by the grant of a certificate to sue, to the mortgagee. If the Inám is of the nature of a religious grant, and if the service for which it was granted is kept up, the Government have ruled that such alienations were unobjectionable. If, on the other hand, the grant was a charitable one, and merely for the maintenance of the original grantee and his descendants, the Board consider that these descendants are entitled to the protection afforded to them by Regulation IV of 1831.

(A true Copy and Extract.)

(Signed) R. A. DALYELL, *Sub-Secretary.*

Proceedings of the Board of Revenue, dated 16th June 1863, No. 3,530.

Read again letter from the Collector of Vizagapatam, dated 19th February 1863, No. 59, recorded in Board's Proceedings of 30th March 1863, No. 1,869.

Read also the following letter from the same Officer, dated 22nd April 1863, No. 227.

1. In reply to Board's Proceedings No. 1,869 of 30th March ultimo, I beg to state that from the permanent Settlement accounts it appears that this Agraharum was granted in perpetuity "Dharmasthan" or for charity.

2. There was a *Sunnud* however; and the lands were in the possession of the family of the original grantee at the time of passing Regulation XXXI of 1802, and it has been repeatedly ruled (Circular Order 27th July 1818, &c.) that in such cases, alienation by the incumbents is at any time unobjectionable. It would, therefore, be extremely hard on creditors to bar them from their rights.

ENCLOSURE No. 1.—Petition.

Under the circumstances now reported by Mr. Carmichael, the Board resolve to submit Petitioner's case to Government with their recommendation that the certificate he desires be given him.

(A true Copy and Extract.)

(Signed) R. A. DALYELL, *Sub-Secretary.*

No. 57.

ORDER THEREON, 3rd July 1863, No. 1,178.

1. The Government are unable to agree with the Board in the propriety of the Collector's recommendation. The view first enunciated by the Board is the correct one, and it is difficult to see what there is in the subsequent explanations afforded by Mr. Carmichael which has led them to change their opinion.

2. It is, indeed, laid down in the Circular Order quoted, that the alienation of certain Agraharums is unobjectionable, but the ruling applies only to service Agraharums, and the

*permanence
as in the 1st Enclosure.*

*Proceedings of the Madras Government, Revenue Department,
3rd July 1863.*

transfer is then only permissible when it carries with it the obligation of service. The Inám now in dispute, however, was given 'for charity,' that is, for the personal advantage of the grantee and his family, and in respect of such Ináms it has repeatedly been decided that their transfer cannot be allowed, and that claims founded on such alienation will not be recognized.

3. This is clearly shown in the very Circular Order quoted by Mr. Carmichael, in respect of Ináms unsupported by any Sannad, and where consequently the personal character of the grant has to be presumed. Where, as in the present instance, a Sannad is forthcoming, this presumption becomes a certainty, and the case is still stronger against claims founded on an alienation.

4. Under these circumstances it seems clear to the Government that the Defendants are entitled to the protection contemplated in Regulation IV of 1831. If the Petitioners chose to accept as security for their loan a personal Inám which they could not recover, they did so at their own risk and must abide by the consequences.

5. The following endorsement will be sent to the Petitioners:—

"As it appears that the Inám in dispute is still in the possession of the original grantee's descendants, the Government are not prepared to comply with this application."

(Signed) J. D. SIM,

Secretary to Government.

Rev. Secy.

Wt. 1178
Pro. of the Madras Govt.
dated 3rd July 63.

Read the following Pro. of the Board of Revs:

8th March 63, No 1109
16 June 63, No 3530.

The Govt are unable to agree with the Board in the propriety of the Collector's recommendation. The view first submitted by the Board is the correct one, and it is difficult to see what there is in the subsequent explanation afforded by Mr Carmichael which has led them to change their opinion.

It is indeed laid down in the C.O. quoted that the alienation of certain agricultural is prohibited, but the ruling applies only to decide if transfer & the transfer is then only permissible when it carries with it the obligation

of service. The man
now in dispute, however,
was given 'for charity',
that is, for the personal
advantage of the grantee
& his family, & in respect
of such man it has
recently been decided
that their transfer cannot
be allowed & that claims
founded on such alienation
will not be recognized.

This is clearly shown
in the very circular order
quoted by Mr. Cunningham,
in respect of man, un-
ported by any document,
& where consequently the
personal character of the
grant has to be presumed.
There, as in the present
instance, a man is
forfeiting, this presump-
tion becomes a certainty,
& the case becomes still
stronger against claims
founded on an alienation.

Under these circumstances
it seems clear to the Govt

that the defendants are
entitled to the protection
contemplated in Reg. 11
of 1851. If the Petrs
chose to accept a loan
for their loan a personal
man which they could
not recover, they did so
at their own risk & must
 abide by the consequences.

The following endorse-
ment will be sent to the
petitioners:-

"As it appears that the
man in dispute is
still in the possession
of the original grant
documents, the Govt are
not prepared to con-
sider their application."

(P. 172)

11. 11. 1851. To the B. & R. Co. 11. 11. 1851.
1. Endorsement to Petitioners with Petition
11. 11. 1851. Capt. J. J.

✓

Received 1863 Sept.
200 of Gov for duty.

2 Nov 1878.

Pro: of the Clerk of Govt
213rd July 1863.

M. L. Latham & Co
and others informed that
the above land of 100 acres
being still in the possession
of the original grantee
descendants their rights
cannot be considered to
be.

50A.
1856 1857.