M.R.O. 14—13,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 73 Press Mis.

Ko 141

Dated 13 1 19 83

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 13th January 1863.

No. 140. Read the following letter from JOHN MILLER, Esq., Acting Government Solicitor, Madras, to J. D. SIM, Esq., Secretary to Government, Revenue Department, dated Madras, 2nd January 1863, No. 1:—

SIR,

Dated 19th December 1862, No. 2,640, Revenue Department.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin.

2. I submitted them with the further information subsequently obtained from you, for the consideration of the Advocate General, and I now forward for the information of Government a copy of his opinion.

COPY OPINION.

1. I entirely concur in opinion with the Government on both the points noticed in their Order dated 19th December 1862, No. 2,640.

2. It only requires to read Section XIX of Act X of 1862, with common attention, to see that the authority given to the Revenue Board to "determine the amount of Stamp which *such* Deed, Instrument, or Writing (*not all* Deeds, &c.) should bear," is governed and limited by the word "*thereupon*." Upon what, is then the question? Why clearly *upon application made* to the Board by any person who "shall entertain any doubt respecting the proper amount of Stamp Duty for any Deed, &c., &c.," and who shall apply to the Board "for an adjudication with a view to remove such doubt." To construe an authority so carefully and expressly limited, and given for one specific purpose, into a general power of adjudication with authority equal to that of the High Court, is opposed no less to the first principles of interpretation of Statutes, than to the plain and obvious meaning of the words of the Section in question.

3. I also entirely concur with Government in the opinion that the wording of Note (*b*) to Schedule B of Act X of 1862 was "*specially* designed to include all sums payable to the proprietor "by *every* description of tenant in the Estate under litigation." It is all very well for the Board to say that *they* view "the Ryots and the Ryots *only*" as the "actual proprietors" of all land in "occupation," which is no doubt the orthodox Munro doctrine; but the Board themselves will hardly deny that there are few points upon which a greater diversity of opinion exists, and that the Zemindars in general are not very likely to concur in the Board's opinion. Zemindars who did so differ in opinion would have a right, should the question of proprietorship arise, to have it decided by the High Court, and the question would then have to be decided by evidence, not by the view the Board might take, as to who were "the actual proprietors." Indeed the Board's opinion, or view, could not be received as *evidence* at all; and even if it could be introduced incidentally, the High Court would probably regard it as they would any general "adjudication" of the Board respecting "the value of Stamps legally requisite" which it might promulgate under the supposed authority of Section XIX.

(Signed.) T. SYDNEY SMYTH,
Advocate General.

29th December 1862.

(A true Copy.)

(Signed.) JOHN MILLER,
Acting Government Solicitor.

No. 141. ORDER THEREON, 13th January 1863, No. 73.

Forwarded to the Board of Revenue who will communicate the purport of paragraph 3 of the Advocate General's opinion to the Collectors and Translators to Government.

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

No 1.

Madras January 2. 1863.

From John Miller Esquire Acting Government Solicitor Madras

To J. G. Sim Esquire Secretary to Government Revenue Department
Madras

Sir,

I have the honor to acknowledge the Proceedings of Government noted in the margin

(Dated 31st December 1862 No 2640 Revenue Department)

2. I submitted them with the further information subsequently obtained from you for the Consideration of the Advocate General and I now forward for the information of Government a Copy of his opinion.

I have the honor to be
Sir
Your most obedient Servant
(Illegible)
Actg Govt Solr

Rec'd Pro 19 December No 2640.

Rec'd 1863 February
Pro: of Govt. for No. 1. January
From
The Acting Govt Solicitor
Madras
To
The Secretary to Government
Revenue Department
Madras

Subd January
Received
No 1

Forwards with reference to proceedings of Government 19 December 1862 No 2640 — Revenue Department — Copy & Extract from General Opinion as to the Construction of Section XIX of Act 10 of 1862 and of Note (b) of the Schedule B to that Act —

1 Enclosure —

No 73. 13 January
With an Order

6 Jan 63. Rgd

No 73.

In re The Right of Road to be sold commencing from the Property of Ramasamy & of the Advocate General's Opinion & the Chief Secretary's Minute thereon

Fort St George
13th January 1863

11 Copies to Board & Revenue Dept 15th
5 — Land Dept