M.R.O. 14—12,000—27-9-24.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 398 Press ~~Mis.~~

69-71

Dated 8—3.—~~19~~ 1864

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 8th March 1864.

Read the following:—

No. 69. Proceedings of the Madras Government in the Military Department.

Referring a letter from the Quarter Master General, forwarding an original communication from the Officer Commanding Malabar and Canara, on the subject of the tenure of the land held by the Beebee of Cannanore within the Military limits of that Cantonment. } (Here enter 30th October 1863.)

No. 70. Proceedings of the Madras Government in the Military Department.

Referring a letter from the Quarter Master General, bringing to notice that the present would be a favorable opportunity to press on the attention of the Rajah of Cannanore the subject of checking Tree planting, and effecting other improvements at that Cantonment. } (Here enter 13th February 1864.)

No. 71. ORDER THEREON, 8th March 1864, No. 398.

1. In his letter dated 14th October 1863, and addressed to the Quarter Master General, Brigadier General Babington brings forward the great "inconvenience and obstruction to giving "effect to the Orders of Government, No. 2,391 of 24th July 1863, for any satisfactory allot- "ment of the otherwise available Officers' houses" in the "Military Cantonment" of Cannanore caused by the circumstance of a great number of them being "on what has got the name of Beebee's ground." The Order mentioned by General Babington makes no allusion to this subject, but the question raised is one of importance.

2. The subject of the rights of the Cannanore Family within that Cantonment has been repeatedly before Government.

3. In Extract Minutes of Consultation, Military Department, dated 25th September 1838, No. 3,197, the Government directed that a plan prepared on a Survey made in 1834 should "be "considered as finally settling all questions respecting the right to land and the limits of each division of the ground comprised in the Cantonment of Cannanore." Reference to this plan will enable General Babington at once to see what lands belonged to Government in 1834, while of subsequent acquisitions by Government the records of his own and the Collector's Offices will of course furnish evidence.

4. To enable Government to pass orders on the present reference it is necessary that they should be furnished with a copy of this plan, showing distinctly the houses in the possession of the Rajah of Cannanore and those styled "Beebee's" houses in the possession of others, which Brigadier General Babington wishes to bring within Military control as regards occupancy, &c. The map should be accompanied by a Memorandum of the documentary or other evidence on which Brigadier General Babington founds his claim in regard to each house.

(True Extract.)

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

To the Board of Revenue.
" Military Department.

Exd. S. T. Augustin.

Military Department

Proceedings of the Madras Government

Under date the 13th February 1864.

Read the following

No 1562

Memorandum

For The Secretary to Government

Military Department.

Forwarded to Government with

reference to the communication referred

to herein which was sent to Government

with this Office letter No 430 dated
8250

23d October 1863 and to which a reply

is solicited.

(Signed) F. H. Scott. Lt Colt.

Quarter Master General.

To

No. 35.

To

The Quarter Master General

Head Quarters.

Sir,

I have the honor to urge to you, for submission to His Excellency the Commander in Chief, with reference to my letter No. 266 dated 14th October 1863 forwarding a "Memorandum" having for object the Military Authority there acquiring the power of giving any real effect to the last order of Government for the allotment of Cantonment Houses; referring also to my correspondence and that of my Predecessor, on the equally urgent subject of checking Tree Planting here - that the present moment would probably be found particularly favorable

favorable for Government to press these matters through the Local Civil Authorities, (provided the latter acted with some perseverance and sustained energy in the matter); because the person who has long been litigating for his Right to the position of Rajah of Cannanore, has just had that Right conceded to him by the British Government - and would therefore I think be found highly disposed just now to promote any such objects of that Government, as the above mentioned ones - Indeed he has I understand already displayed that spirit in respect to the removal of a Belt of plantation contiguous to the Magazine, Burial Ground, &c. - just sanctioned by Government at the instance of His Excellency the Commander in Chief - which operation will in itself, besides its

its more immediate and expressed objects, vastly augment the sea Breeze Ventilation of the entire extensive Infantry Lines - which it at present intercepts from the Healthiest Breezes.

Cannanore, 2d February 1864 } (Signed) D. Babington Brig.r Genl Comm.g Malabar & Canara.

Referred to the Revenue Department in connection with Docket of 30th October 1863.

(Signed) H. Marshall. Colt Secretary to Govt.

No. 266 -

To, The Quarter Master General
Head Quarters

Sir,

Adverting to former Correspondence on the serious evil in this Military Cantonment, constituted by the Obstacle to Carrying out the recent orders of Government, presented by imaginary Foreign Rights in the way of Allotting to Officers' occupancy, Houses within its Gazetted limits, Called "Beebee's Houses"; I feel it an urgent Public Duty respectfully to lay before His Excellency the Commander in Chief, for submission to the consideration of Government, the "Memorandum" on that subject herewith - which I venture at this time so to forward, with a view to the important matter, thus put in Succinct shape, not troubling His Excellency, among the many others that will occupy his time during his now approaching visit here - and also to its being placed before His Excellency in the same tangible shape of information, previous to that occasion -

I have the honor to be
Sir
Your most Obedt. Servant
[signature] Brigadier
Commanding Malabar & Canara

Cannanore
14th October 1863

17.6.03

R C No. 2650 of 63 -

Rev: 1864 Dept.
No. 440.

Proceedings of the ... in the Military Department

Dated 13th Feby
Received 15th Feby 1864.

No. 70.

Memorandum

The greatest Inconvenience and obstruction to gra
effect to the Orders of Government c.t.r 2391 of 24th July
1833 for any satisfactory allotment of the otherwise avai
able Officers' Houses in the Military Cantonment, ha
long subsisted, and is still allowed to subsist, owing
a great number of them (so described every where amo
them standing on unquestioned Government Ground) a
to render such most desirable allotment impossible) be
on what has got the name of "Deebee's Ground."

The above Orders of Government tended me to inve
tigate this difficulty - and the more I look into the inves
I manifest does it become that it is a factitious one.

The limits of the Cantonment have for long ever
in the usual Officially defined and recorded Shape, a
the "Deebis Ground" in question - Shape have lately be
revised, additions to the Spaces heretofore excluded; and
the said Plan has received the signatures of the Collector
Malabar and myself. - Regulation VII. of 1832 has accor
ingly, as long been in force in the Cantonment - wherein
all the said "Deebis" Houses are situated. —

Assuming that the Deebee (if her rights could
thus affect Houses &c situated) still retained some
vereign or Manorial "Droits," I applied to Her and she
readily gave me Written Authority to dispose of the occu
pancy of all Her Houses in the Cantonment. - But I
found, in proceeding to apply this Authority to all "Dee
bees Houses" in the Cantonment, that it was held to
no efficacy beyond those which were her own individua
property.

This of course dispelled also the idea of the "De
bees Quasi Sovereignty" in the whole case - which ceased
to exist in the least analogous to that of Secunderabad

or Bungalow or the neighbouring "Foreign Territory" of Malabar; and other individual owners merely stood in the same position as everyone (the Barber herself inclusive) owning Houses in a Gazetted Military Cantonment, here or elsewhere -

The Barber herself, and all other Malabar owners, (resident out of Cantonment) displayed to me the fullest impression that their Houses were under Military Control - and were kindly surprised to find it at all questioned - There is no Record, anywhere, either of the cession to Government of the ground whereon this Military station stands, or even of the "thousand yards round the Fort" traditionally said to have been (only) so ceded - There is apparently an impracticability of ascertaining, even, whether all Houses belonging to out Resident Malabar owners, do not stand, strictly, on ground in the Malabar Collectorate - or in the Chericale Taluck - One thing is certain, that no owner can in the least degree substantiate the negative of this! - On the Contrary, I have candidly told Could do so to produce their grants - and the latter are all by the Officer Commanding Cannanore!! and are so registered! -

The question of any "Foreign" (in the sense of "Sovereign") Right being thus dispelled, and having resolved itself into private Right - there remains but the Footing and effect of the latter to investigate; for which investigation I am informed no Lesta are extant - while the Facts that are Patent - of this being a Gazetted Military Cantonment under VII of 1832; & not a Shadow of Proof being adducible that the so called "Barber" Houses do stand on any other than British Ground; - and of the owners (acquiescently) producing Commanding Officers' grants! - are sufficient for determining the mere "occupancy" allotment, to Military Officers, to rest in such Commanding Officers -

I have reminded the owners (who are, however, as aforesaid, astonished to find such power of allotment at all called in question) that their such House property has Military protection - and that they had the great advantage of recovering Rent by a Military Court of Requests! - It may be asked, then "where is the Restriction caused by such Houses"? - But owners let such houses to Non-Military Persons, - and, until the Authority to eject the latter be determined a legal raising of Question is always probable; and that all Resident Officers have from time immemorial occupied undisturbed, "Barber's Houses" in the Lines of other than their own Regiments - and non-Military persons have taken and do take them, uncontrollably by Military Authority -

I believe the traditional impediment to suppression of this most mischievous local obstruction to be imaginary - and a mere Bugbear - and I am satisfied that, at least for the great public practical object in question, - where the Local Civil Authorities instructed by Government to draw Energetically into the matter, in the view of it I have above submitted, the Stumbling block could be made to vanish

Cannanore
October 14th 1863

Dan'l Parker Mitchell Brigadier
Commanding Malabar Dist.

Revenue Department

Memo

Para 1. Colonel Babington brings forward the great "inconvenience and obstruction to giving effect to the orders of Govt. No. 2391 of 21st July 1863 for any satisfactory allotment of the otherwise available officers' houses" in the "Military Cantonment" of Cannanore caused by the circumstance of a great number of them being "on what has got the name of Beebee's ground." I cannot find that the order mentioned makes any allusion to the said subject but the question raised is one of importance, and, as it has been submitted by His Excellency

Revenue
2653/63.

Cannanore 15th

Confirmation of Mahabalam

Forwards a petition regarding Government Lands

Revenue

No. 2653 of 1863

Letter from the Collector of Malabar dated 23rd Nov. 1863 with enclosure.

Received 25th November 1863.

Replied 26th.

the Commander-in-Chief, the Government will, I conclude, deal with it.

2 The question of the rights of the Cannanore Family within that Cantonment has been repeatedly before Govt.

3 In Extract Minutes of Consultation Military Department dated 25th September 1838 No. 3197, the Government directed that a plan prepared on a survey made in 1834 should be considered as finally settling all questions respecting the right to Land and the limits of each division of the ground comprised in the Cantonment of Cannanore. I have gone carefully through all the voluminous correspondence, and can find nothing to show that this decision has been or should be altered.

Reference

Reference to this Plan will enable Colonel Babington at once to see what lands belonged to Government and what lands did not in 1834.

4 The question now is what authority have Government now over lands standing within the limits of the Cantonments, but not on their land.

5 Regulation VIII of 1833 is the law which relates to stations designated "Military Bazar stations" in general orders by Government.

6 Section XXXVIII enables Government by an order in Council to extend

all or any part of the Regulation to "any other Military station besides Military Bazar stations."

This Regulation is the only one which vests Government with any special powers at Military stations. What these powers are will be gathered from the following sections.

Section XIII: "Breach of general orders or local regulations established by the Commanding officer under the orders of the Government for the maintenance of good order and discipline" when committed by native members of the army or followers and other military classes, may be tried by Courts martial or by the officer in charge of the police.

XIV. Every registered Military Bazar minder "subject to all Regulations established by the Commanding officer under the orders of Government for the maintenance of good order and fair dealing in the Bazar and for the sufficient execution of such services as belong to the profession or occupation"

XVI. Any native smuggling liquor or intoxicating drugs or illegally selling them to Europeans or illegally having more than a certain quantity

of them in his possession may be tried and punished by the Police officer or by Court martial.

XXX. Nothing contained in the Regulation is intended to render amenable to Court-martial or to punishment by the officer in charge of the Military Police accused persons arrested within the Military limits, though in the habit of resorting to the Military bazar, who are not included in any of the military classes specified in section XIII unless they be native infringing the provisions of section XVI of this Regulation. All other accused persons must invariably

[illegible] made
[illegible] to the Civil Magistracy."

Section XXXV. Commanding officers are vested with power to remove [illegible] and to prevent [illegible] upon the streets of the Bazaars and Cantonments within their jurisdiction by [illegible] huts, pandals and other buildings: But not with authority to dispossess persons of houses or land or of [illegible] situated within the limits of any Military Bazaar Station; provided always that the occupation of ground which is in dispute the Civil Court have settled to be exclusively the property of Govt when such allotted to Bazaars shall be subject to all such regulations

as are now, or may be hereafter established by general orders of the Government."

8. It will be seen from the above that the scope of Regulation VII of 1832, is limited both as to the powers it confers and the persons over whom those powers are to be exercised.

9. I can see nothing in the Regulation restricting Govt with power to control proprietors of houses in renting their houses to whomsoever they please & No 8 of the rules for the "occupation of Houses in Cantonments" specially excepts "houses built on land not the property of Govt or held on freehold tenure" from being made available for occupation by military or

officers

17

officers without the consent of the owners. Under this exemption no person by the existing laws, the Collectors of Bangalore cannot interfere with houses situated on lands marked on the map appended to Clause 2 of this Regulation as the Bubes' land or as private land, unless such lands have since been acquired by Government unless with the consent of the proprietors, or the consent to the rules being made applicable to their property, with

a view

a full knowledge of the matter.

So Colonel Barrington says that the Berbice has given him written authority to dispose of the vacancy of all her Commissioned officers.

The Berbice as Government are aware has lately been set aside in favor of the Rajah and I presume that the ratification of this permission by the latter is a sine qua non. Legally he can disavow it as the act of a person in improper possession of the Family Estate. The Collector can, if Government desire it, seek this ratification - but it is a thing of course without any equivalent - I presume that if the Collector does apply to the Rajah, he must fully explain and publish the nature

manure and extent
of the powers vested in
the Military authori-
-ties even to pro-
-ceed over the Regencies
houses. No Bond
can be sought be-
-cause there is no
consideration on
the part of Govern
-ment. The autho-
-rity therefore whe-
-ther in writing
or not, will be
revocable at plea-
-sure.

Brigadier

11. Brigadier General
Babington goes on to say
that when he came to ap-
ply the Beebee's authority
to all "Beebees Houses"
it was held to have no ef-
ficacy beyond those
which were her own in-
dividual property - the
owners of the other houses
are represented to be as-
tonished at finding the
houses of the Military au-
thorities over their houses
questioned but never the-
less continue to let them
to whom they please - Ge-
neral Babington's object
is to sift the titles of these
house-owners and, as far
as I can gather for his
letter, is anything but
lucid to establish either
that they are on Govt.
land and therefore subject
to

to the control of the mi-
-litary authorities or on
"Beebee" land and there-
-fore within her author-
-ity to make over to their
control-

12 The main allegation
required to still settle the
first question - and as to
the second, I cannot see
how the Beebee or rather
the Rajah can transfer
any such power, over lands
not his property - It is
the essence of probable
that the Rajahs' predecessors
ever exercised such power -
and the Brigadier Gene-
-ral admits that "officers
have from time immemo-
-rial occupied, undis-
-turbed Beebee Lands
in the lines of other than
their own Regiments and
non-military persons
have taken and do take
them, uncontrollably by

military authority" - so that
if the right were exercised,
the Statute of Limitations
would now bar its ex-
-ercise - I cannot see
how the Collector can help
Brigadier General Ba-
-bington - he cannot com-
-pel the owners to show
their titles, and as they
are in possession the
onus probandi rests on
Govt - Moreover, I do not
think Govt should at-
-tempt to acquire such
powers as this allotment
of lands - the ejection of
tenants - limitation of rent,
&c, without the full and
free consent of the owners
whatever the Rajahs' ri-
-ghts may have
been -

13 General Babington
says that in many cases
the powers produced or
grants from the officer
Commanding

Commanding Commissioners
of course if the buildings
held on these grants
stand on Govt land - ei-
-ther as shown in the map
already referred to - or subsequently
purchased - there can
be no objection to the terms
of the grants whatever they
may be being enforced.
but those terms cannot be
exceeded.

14. But if the lands
do not belong to Govt the
grants are waste paper -
as Govt cannot give what
is not their own, and the
deeds must have been
sought and obtained
through ignorance.

15. I confess to a
strong feeling against
all encroachment on
private rights - there is
no hardship or injustice
in Govt granting their
own land on any terms

they please and rigidly
by enforcing those terms
but here I think Govt
should stop, in policy
as well as honesty -

16. The only course
I can suggest is that Ge-
-neral Babington should
send us a copy of the plan
with the bounds he wishes
to obtain power to mark
marked on it and a
statement of the evidence
on which he rests the
claim - Govt can then
consult their legal ad-
-visers as to the pro-
-priety to sustain an
action - or accept the
alternative of purchasing
or erecting such limits
as are necessary for
Military purposes.

Orders requested

J. D. L.

Rev: 3912/68.

Revenue Department

No. 398.

From the Madras Government
dated 8th March 1864.

Read the following Res.
from the Madras Government
in the Military Dept.
Secretary to Govt. dated 13th Feb 1864.

Forwarding in his letter dated
14th October 1863 and addressed
to the Quarter Master General
in India General Balmingtons
strictures for removal the great
inconvenience and obstruction
to giving effect to the orders of
Govt. G.O. No. 2391 of 24th July
1863 for any satisfactory
allotment of the otherwise
available officers' houses" in
the "Military Cantonment"
of Bangalore caused by the
circumstance of a great number
of them being "on what has got
the name of "Beaches' ground".
The order mentioned by
General Balmington makes no
allusion to this subject -
but the question raised is
one

ance of importance.

2 The subject of the rights of the Commanders Family within that of Cantonment has been repeatedly before Govt.

3 Mr Erskine's Minute of Consultation Military Department dated 25th of September 1838 No 3197, the Govt directed that a plan prepared on a Survey made in 1834 should be considered as finally settling all questions respecting the right to Land and the limits of each Division of the ground comprised in the Cantonment of Commanore, ~~The same carefully throughout to be minutely correspondence, and can find nothing to shew that~~ this

* while of subsequent acquisitions by Government the records of this office and the Collector's own offices will of course furnish Evidence.

his decision has been or should be altered.

Reference to this Plan will enable General Darlington at once to see what lands belong to Government in 1834.

To enable Govt to pass orders on the present reference it is necessary that they should be furnished with a copy of this plan, (x) shewing distinctly the houses in the possession of the Rajah of Commanore and those styled "Deshees" houses in the possession of others, (x) which Brigadier Genl Darlington marches to bring with him Military

Centre

received as regarded
accompany this. The
Map should be accom-
panied by a Memo
of the documentary
or other evidence on
which Brigadier Gen.l
Babington founds his
claim in regard to
Leachhouse.

J. J. P.

Ill Captain Sollitt R.N. of Rod (Wexford) by Thos
Holliday Dodd (?)

11-11-96
167-15 ∫ E-3-1564.

Revenue 1864 Dep.tt
Pro. of Gan.r for Mar.h

c.t. 398.

Dep.t of the Madras Govt
Dat.d 8.th March 1864.

A copy of the plan
of Cannanore Cantonment
prepared on a survey made
in 1834 called for

No 67 C 71.