

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1124	<u>Press</u> <u>Mis.</u>
477-478	
Dated	29-5-1863.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
29th May 1865.*

No. 477. Read the following Proceedings of the Board of Revenue, dated 26th April 1865, No. 2,107:—

Read again Memorandum from the Quarter Master General of the Army, dated 16th December 1864, and recorded in Board's Proceedings, dated 17th January 1865, No. 266.

Read also the following letter from J. D. ROBINSON, Esq., Collector of North Arcot, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Ayithepalle, 9th March 1865, No. 36.

Dated 17th January 1865, No. 266.
Enclosures returned.

1. I have the honor, with reference to the Proceedings noted in the margin, to submit the report therein called for.

2. I cannot think that the matter discussed in these papers is one with which the Military Authorities have any further concern. A parcel of land, valuable from its contiguity to a large cantonment, is withdrawn for Military purposes from the possession of its then owners, in days when such appropriations were made in a much less formal manner than would now be safe.

3. It is not likely, from the very nature of the interests at stake, that this appropriation was effected with the free and willing consent of the then proprietors, nor is there any thing on record to shew that compensation was offered or accepted. The very eagerness of the parties to re-enter on possession may be accepted as evidence that the land was then parted with most reluctantly, and that it had a value in their eyes then which they have never lost sight of.

4. This same plot of ground so acquired being latterly no longer required for Military purposes, the Brigadier Commanding Vellore, without (so far as I can gather) satisfying himself respecting the previous history of the transaction, makes over on a self-assumed authority, to certain outsiders in no way connected with the village to which the land is attached. I call Brigadier White's authority self-assumed, because to my view his authority ceased when the land returned to the cultivable area of the village, from which, for exceptional and special purposes, it had been temporarily detached.

5. On this, the parties, or the legal representatives of these parties who were unwillingly dispossessed, came forward and claimed the restitution of rights which they only surrendered under an authoritative pressure, which they felt it would be vain to bear up against. They are then told that the land has been otherwise disposed of by the Military Authorities; and in aggravation of the hardship, are now twitted with their long silence, their very forbearance and patience being thus made an argument against their most rightful claims.

6. The question lies in the very narrowest compass, and is solved in the answer to the following question. Had the Brigadier authority to dispose, under its then altered conditions, of land which had returned to the cultivable area of the village? I answer not, as when the plot ceased to form part of the Military Cantonment, and reverted to its original purposes, the Military jurisdiction ceased likewise, and its subsequent disposal rested absolutely with the Revenue Authorities and with them alone.

7. The plea of silence I have already denounced as an aggravation of the hardship; the other plea, that a well has been sunk, and further improvement made by the parties put in by the Brigadier, is not one whit more conclusive; it is a question which may be left to the parties themselves to decide by arbitration, compromise, or Civil action, as they may think best; but it is not one which should bar the former owner's right to re-enter on possession of ancestral property, a possession which fell into temporary abeyance owing to circumstances only over which he had no control.

8. I have no hesitation in saying that the rights of the case are as plain as A B C, and that Brigadier White exercised a jurisdiction in the matter which he did not possess, and ignored (unwittingly probably) the rights, proprietary, or in every case, preferential of the parties who now protest against his act.

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9. The restitution of those rights is a simple question of bare justice and good faith, and as such should be enforced, all impediments notwithstanding. These rights were only surrendered on certain conditions, and these were conditions which from their very nature make it more than ordinarily desirable that the fullest good faith should be kept with those who were forced to subscribe to them.

10. With these remarks, I beg to leave the matter in the Board's hands, confident that they cannot see the question in any other light than that in which it has presented itself to every Revenue Officer who has had to offer any opinion on the subject.

1. Resolved that the foregoing papers be submitted for the consideration of His Excellency the Governor in Council, with advertence to the wish expressed by the Quarter Master General in the concluding paragraph of his Memorandum.

2. It will be observed that certain land, now said to be included within the limits of the Vellore Cantonment, was up to 1840 held on Puttah, and cultivated by the Ryots of the village in which the land is situated, and that, in December 1859, the land having then been waste for a period of nineteen years, was made over, by Brigadier White, who commanded the station, to one Abdul Khader a Tailor, and another, for cultivation.

3. The descendants of the former holders, now represented by Ramasawmy Reddy, the Monigar of the village, raised objections to the land being given over to a stranger, and apparently made these objections *before*, as will be shewn hereafter, Abdul Khader obtained possession.

4. The case was in the first instance reported to Mr. Elliot, then Sub-Collector of North Arcot, who decided in favor of Abdul Khader, on the ground that the land was at the disposal of the Military Authorities, but Mr. Robinson, the Collector of the District, when the case came before him in appeal, reversed the order of his subordinate, and placed Ramasawmy Reddy in possession of the land in dispute, in consideration of its having been enjoyed formerly for many years by his ancestors.

5. Meantime Abdul Khader had addressed the Military Authorities: On the first occasion he submitted a petition to the Brigadier, dated 31st December 1859, or within a month after the Brigadier had passed the orders granting him the land, stating that he had commenced to repair the road leading to the land, that the work had been immediately put a stop to by the Monigar, and that the Civil Ameen had ordered him not to make any outlay until the orders of the higher authorities had been obtained. It does not appear that any notice was taken of this petition, but four years after, in November 1863, Abdul Khader again addressed a petition to the Station Staff Officer, complaining that Ramasawmy Reddy had been put in possession of the land in October 1860, requesting that the land might be made over to him, and claiming compensation for the outlay he had made on the land in accordance with Brigadier White's orders.

6. In the February following, the Officer Commanding Vellore addressed the Civil Authorities regarding the case, and after some correspondence, during which it was elicited that, as far as could be ascertained, no compensation was given when the land was originally taken up for Military purposes, he submitted the matter through the General Commanding the Division to the Commander-in-Chief.

7. The Quarter Master General, Colonel Scott, while admitting that the difficulties which surround the case have been occasioned by the improper proceedings of Brigadier White in granting the land for cultivation on his own authority, is of opinion that Ramasawmy Reddy should be required to reimburse to Abdul Khader, any outlay he may have incurred. He also accepts, as it would seem, Abdul Khader's assertion that the cost of this outlay was really Rupees 200.

8. Colonel Scott, by desire of His Excellency the Commander-in-Chief, also expresses an opinion that the Civil Authorities committed an error in disposing of land set aside by Government for Military purposes, and recommends that the land should be again included within the Military limits.

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29th May 1865.*

9. The Board observe, with reference to the first proposal, that the Government cannot compel Ramasawmy Reddy to make any compensation to his opponent, but they also doubt whether any compensation could in equity be claimed. There is nothing beyond Abdul Khader's own assertion to shew that he incurred any outlay in regard to the land, while his own petition proves that in less than a month after the issue of the original order granting him the land, he was warned to desist from making any outlay. If, therefore, while the case was *sub judice*, he chose to incur any expense, he did so at his own risk, and the Board consider that he will have nothing to complain of if he be referred to the Civil Court to establish any claims which he may possess against Ramasawmy Reddy.

10. As to the further remarks of His Excellency the Commander-in-Chief, the Board must express their regret that when the case was first brought before him, Mr. Robinson did not at once place himself in communication with the Officer Commanding Vellore. The Board agree with Mr. Robinson, in considering that the Revenue Authorities should invariably dispose of all applications for lands required for cultivation; but, at the same time, when such applications are made for land situated within the limits of a Military Cantonment, the Revenue Officer should take care to pass no final orders except in consultation with the Military Authorities.

11. The Board would suggest that distinct instructions be issued to all Revenue Officers on this subject, as the necessity of some such instructions is apparent from the present case. For the land in question having been formally put in the possession of Ramasawmy Reddy, it will not be possible again to include it within the Military limits, except at some expense, and under the formal procedure prescribed by the Act for the acquisition of land for public purposes, unless Ramasawmy Reddy should agree to some private arrangement, under which he might be permitted to hold the land so long as it shall not be required for any Military purpose.

AG. 478. ORDER THEREON, 29th May 1865, No. 1,124.

Land Revenue

1. There are three points clear in this case—

I. That the right of the former holders of the land revived when the spot was again available for cultivation.

II. That it was the business of the Revenue authorities to ascertain who represented the former holders in the village.

III. That Abdul Khader had no right whatever to the land, and that the Brigadier was not competent to give him a title.

2. Under these circumstances, and as His Excellency the Commander-in-Chief does not object to the land being cultivated, the Government see no necessity for them to interfere in the matter. It is evident that Abdul Khader's acts on the land were interrupted immediately on his taking possession, but if he can establish any claim for compensation on account of money spent, the Courts are open to him.

3. The fact of the land being cultivated will not place it beyond the Military limits.

4. The Government do not consider it necessary to issue any circular instructions in consequence of this case. Mr. Robinson was wrong in not communicating with the Military authorities in the matter, but the first error lay with the Brigadier, and his act shewed that the land was available for cultivation.

(True Extract.)

(Signed) W. HUDLESTON,

Acting Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 17th January 1865.

Read the following Memorandum from Lieutenant-Colonel F. H. SCOTT, Quarter Master General of the Army, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 16th December 1864:—

1. Forwarded to the Board of Revenue with the following remarks.
2. The land in question appears to have been included in Military limits at least for some time prior to 1829—vide Extract from an old plan in this office. Pharoah's plan is of no authority as it is unauthenticated, and it is unknown where the original was procured from. Brigadier White exceeded his authority in granting land within Military limits to any person without the sanction of Head Quarters, and for such a purpose as cultivation, with which he had no concern. He, therefore, is responsible for all the consequences: but having left the Army some time ago, he cannot be reached. The Monigar should have sued him, and not the Petitioners. But the land being once the Monigar's, though in occupation by the Petitioner, it is presumed must still be his, (notwithstanding that for many years he did not advance his claim to it,) since there is no evidence that compensation was ever paid to him for it after its inclusion in Military limits. But as he summarily ejected the Petitioners, thereby involving a loss to them of some 200 Rupees, it is held that he is due to the Petitioners compensation for that loss.
3. Then as to the other questions of the right of a Civil Officer to interfere with the disposal of ground set aside by Government for Military purposes. The Commander-in-Chief is of opinion that an error was committed in this case. The Officer Commanding the Garrison should at least have been made aware of the proceedings, that he might have had opportunity of asserting his views for communication to the Commander-in-Chief. But nothing of the sort was done.
4. The Commander-in-Chief, therefore, recommends that the land be resumed for the reasons for which it was originally included in Military limits; that the Monigar pay compensation to the Petitioners; that the boundary remain intact; and that the land be allowed to revert to Nunjah land as of old.

the Board of Revenue feel themselves incompetent to decide the case, the Commander-in-Chief requests they will be so good as to forward the correspondence with these remarks to Government.

ENCLOSURE No. 1.

From Major G. SMART, Commanding Vellore, to the Quarter Master General, Bellary, dated Vellore, 26th November 1864, No. 583.

1. In forwarding copies of correspondence betwixt the Collector of Chittoor and myself regarding a piece of land lying to the north of the Fort of Vellore, and situated within Military limits, I have the honor to request you will be good enough to submit the same for the consideration and decision of His Excellency the Commander-in-Chief.
2. The land in question (is shown in Map of Vellore marked A. forwarded) was lying waste in December 1859, when it was given over to Davasegemony Mudaliar and Abdool Cawder by Brigadier White conditionally, as per copy of Certificate attached, marked A.
3. Shortly after being put in possession of the same, Monigar Ramaswamy Reddy and others came forward and laid claim to the land on the plea that it had formerly been in the occupation of their ancestors; the case in dispute was carried before the Acting Sub-Collector, Mr. Elliot, who decided (vide Takid and translation enclosed marked B.) that the land being within Military limits, could not be interfered with by the Civil authorities; the Monigar however, dissatisfied with this judgment, appealed to the then Acting Collector of the District, who reversing the decision of his subordinate, directed the ground to be given up to Ramaswamy Reddy.
4. It will be seen in copy of letter from Mr. Robinson to Acting Sub-Collector, Mr. Barlow, No. 179 of the 18th March 1864, attached, that he based his decision on the fact that Ramaswamy Reddy's ancestors had held the land in Puttah for a series of years previously; but I submit that this

was manifestly unjust for the following reasons:—The land in question had been out of the possession of the Monigar's ancestors for nineteen years previous to December 1859, during the whole period of which the Monigar would appear to have taken no steps whatever to recover it from the Military authorities, nor even made an application to be allowed to cultivate the ground, and it was only on seeing that the ground was given over to another that a feeling of jealousy apparently prompted him to claim it as his own. On the case being brought up before the Collector on appeal the ground had already been in the Petitioner's possession for ten months, but no consideration was given to the fact that the Petitioner had expended a considerable sum* in tilling and improving the land, so that when the Monigar

* Vide Petition attached, to be returned.

took possession he found a road ready made, and a well dug, &c., without any expense having been incurred by himself in constructing them.

5. Apart from all this, however, I would beg to be informed whether it is competent for the Civil authorities to deal with a case of this kind, and whether the ground† having for so long a period been a part of the Military Cantonment it was right that the Collector should, in this arbitrary manner, cancel and reverse an order of the Brigadier Commanding Vellore.

6. The Petitioner Abdool Cawder is a poor man, and utterly unable to bear the cost of Suit in a Civil Court. I, therefore, beg that the whole case may be submitted to His Excellency with a view that the opinion of the Government Law Officers may be taken on the subject, or the matter referred to the Revenue Board for decision.

No. 1281.

Head Quarters, Centre Division, Madras, 29th November 1864.

It appears to me that the land within Military limits at Vellore has more than once been a cause of conflict between the Civil and Military authorities: one or other should exercise the sole authority. On a former occasion a similar case arose so far as the Collector putting a person in possession of land within Military limits, which had previously been granted to another by a former Brigadier, at Vellore; the Military limits are difficult to ascertain on the ground; boundaries cannot be seen from each other. Brigadiers and Collectors have both claimed the right of granting land. The Petitioner, Abdool Cawder, has a claim for compensation for any improvements he may have made. But this must rest with Government, and I recommend the case to be submitted to the Government Law Officers.

MADRAS,
29th November 1864.

(Signed) W. A. McCLEVERTY, Major General,
Commanding Centre Division.

ENCLOSURE No. 2.

ABSTRACT.—Copies of correspondence.

ENCLOSURES Nos. 3 to 6.—Sketches.

Forwarded to the Acting Collector of North Arcot for early report.

(True Copies and Extract.)

(Signed) W. HUDLESTON,
Secretary.

To J. D. Robinson, Esq., Collector of North Arcot,

with enclosures to be returned.

Copy to Lieutenant-Colonel F. H. Scott, Quarter Master General of the Army.

Ed. J. Wright.

No. 1124

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 29th May 1865

Read the following
Proceedings of the Board of Revenue

Submitting, with remarks,
letters from the Collector of North
Arcot and the Quarter Master
General of the Army, regarding the
land to the North of Vellore Fort
granted by Brigadier White to one
Abdool Khader.

(Filed under 26th April 1865 No. 2107)

There are three points
clear in this case
1. that the right of the
former holders of the land to
reclaim when the spot was
again available for cultivation
2. that it was the business
of the Revenue authorities to
ascertain who represented the
former holders in the village.
3. that Abdul Khader had
no right whatever to the land
and that the Brigadier was
not competent to give him

WON

Received by the Collector of North Arcot
on 26th April 1865 No. 2107

1865.

Department

No. 1161/65.

PROCEEDINGS OF THE BOARD OF REVENUE,

No.

Dated 17th January 1865.

No. 266.

Forwarding for early report letter from the
Quarter Master General of the Army relative
to the piece of land lying to the north of the
Fort of Vellore and situated within Military
limits.

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Under these circumstances
and as His Excellency the
Commander in Chief does
not object to the land being
cultivated, the Government
see no necessity for them to
interfere in the matter. It
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acts on the land were
interrupted immediately on
his taking possession - but
if he can establish any
claims for compensation
on account of money spent,
the Courts are open to him.
The fact of the land
being cultivated will not
place it beyond the
Military limits. It is for
the Government to
not consider it necessary
to issue any circular or
instructions in consequence
of this case. Mr Robinson

5
was wrong in not to
communicating with
the Military authorities
in the matter - but the
first error lay with the
Brigadier - and his act
showed that the land was
available for cultivation.

14 To the Board of Revenue with
original enclosures, 20 May
The Military, 11 July 65

L.R.

Ordering that last
winter the William &
Condemned and madd
for Antony & James
to be sold to Wichita to its
original children.

Received 1865 Oly. 11th
 George Washington May
 A^{to} 1174
 George Washington
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27 May 1961