

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 506

Press
Mis

126-122

Dated

8-3-1865.

Not to be folded or roughly handled*Map*

*Proceedings of the Madras Government, Revenue Department,
8th March 1865.*

No. 121. Read the following letter from J. OUCHTERLONY, Esq., to J. D. SIM, Esq.,
Secretary to Government, Revenue Department, Fort Saint George, dated Madras, 20th
February 1865:—

SIR,

1. I hope to be excused for addressing you on a subject which may be deemed one of personal concern, but in respect of which I nevertheless indulge the hope that you may see grounds for interposing to obtain for me what the Collector of Malabar has held himself called upon to refuse, though under, as I shall humbly submit, a mistaken view.

2. I would then proceed to explain that a dispute exists between myself and a Captain Godfrey, relative to certain land in the valley south of Goodaloor, where we both hold under the Rajah of Nellumboor, but that Captain Godfrey claims a superior title in virtue of certain Chetty. In direct reference to this latter claim an investigation took place in December 1848, by the then Sheristadar of the Ennad Talook, Cooppa Row, under orders from the Magistrate of Malabar, to whom a report was made at its close. This was accompanied by depositions taken on the occasion, and amongst them was one from the above Chetty.

3. It is naturally a point of material concern to me to know what this Chetty deposed, and the Proceedings in reference thereto; but this is so, solely in respect of the matter at issue between Captain Godfrey and myself.

4. Accordingly I applied, in November 1863, through my Agent, to the Collector of Malabar, for access to these papers; but my Agent (mistakenly) asked for *official copies*. These were refused, for the reason assigned in Appendix A.

5. Subsequently, upon learning that access to such papers was never refused where a party had a direct interest in knowing what they were, and that my not being allowed to have this was probably from this interest not having been fully shewn, I set the whole circumstances out in a

Collector's letter of 10th August 1864.

fresh application, on 21st July 1864, to the Collector of Malabar. Appendix B is a copy of the Order passed on this new occasion.

6. I (erroneously) deemed that the tenour of this last Order was designed to point out, that the Nellumboor Rajah who had been a principal in the enquiry of 1848, was considered to be the proper person to apply for access to the papers. I therefore requested him to do so, which he did on the 7th September 1864, assigning as the ground of his request his being about to sue Captain Godfrey for Jenme Bhogum that was due. The Order upon his application is in Appendix C.

Collector's order of 1st November 1864.

7. The Nellumboor Rajah now appealed to the Board of Revenue. The result will be found in Appendix D. The objections now urged (by the Collector) may be summarily stated as, first,

Proceedings Board of Revenue, 16th January 1865.

that the papers *might* be sought in reference to a contested title between the Government and the Rajah; and second, that the papers belong to a magisterial proceeding.

8. Now, I would humbly submit, that the first is an assumption which cannot be fairly maintained. I have myself been the real applicant throughout; the Nellumboor Rajah having been alone called upon to interfere when I labored under the impression that the Collector of Malabar had directly pointed to him as the proper person, and my object has been plain and avowed, viz., that it had reference, and reference alone, to the dispute between myself and Captain Godfrey; a dispute which, I may observe, exists in a more particular degree as regards boundaries. Moreover, the allowing me to see what, in regard of a certain previous enquiry affecting this particular spot of ground, the papers or the depositions connected therewith might convey, could influence no interest, in any improper or unjust manner; and, with regard to the objection urged

*Proceedings of the Madras Government, Revenue Department,
8th March 1865.*

in Appendix A, I know that I may safely say no suitor is ever expected to call for the production in Court of a paper, of whose contents he is ignorant; while at the same time a refusal to let these become simply known, is a thing scarce ever heard of.

9. The second objection, of the proceedings being in a Magisterial case, seems merely to affect the power of the Board of Revenue to interfere. The original proceedings however went somewhat further than this; for their issue, in a grant by the Nellumboor Rajah to Captain Godfrey mainly followed the wishes of the then Collector, the late lamented Mr. Conolly, who had a great desire to see coffee cultivation introduced into the District. The merits of my application cannot however be touched either way, whether it was as a Magistrate or as Collector that Mr. Conolly acted on the occasion.

10. I have throughout been acting under the conviction, that I am asking for nothing unusual or incorrect, but on the contrary for what might be as fairly and reasonably accorded as it can be fairly and properly sought. It is no secret record that I wish to pry into, but the proceedings of a formal enquiry, conducted under the official orders of a Collector and Magistrate; and it is under the same impression of my preferring an unobjectionable request that I now respectfully seek at the hands of Government that it will sanction my having access to these

• Record of Proceedings of Coopa Row, Sheristadar of Ernand Talook, in reference to Nellumboor Raja, Elamal Permal Chetty, and Captain Godfrey, submitted to Collector of Malabar on or about December 1848.

papers: or, should the Government see fit, that it will be pleased to send for the record, and, after inspection, that I may then be favored with an order, allowing my access to it whether in whole or in part.

APPENDIX A.

Memorandum from G. A. BALLARD, Esq., Collector of Malabar, to Mr. J. L. CAMERON, Beypore, dated Calicut, 7th December 1863, No. 4,194.

1. With reference to Mr. Cameron's note of the 30th ultimo, the Collector observes that several applications have been made of late for copies of official papers connected with the lands adverted to. It is not usual to grant copies of the records without the production of an extract from the diary of a Civil Court to shew that they are required, and the Collector must decline to grant copy of the record now applied for unless an extract from a Court's diary is produced.

2. The stamped papers received with Mr. Cameron's note are returned.

B.

From G. A. BALLARD, Esq., Collector of Malabar, to J. OUCHTERLONY, Esq., Ootacamund, dated Calicut, 10th August 1864.

In acknowledging your letter of the 21st ultimo, received when on circuit, I beg to inform you that I have examined the record you allude to, and as I do not find that the enquiry was held with reference to any claims advanced by you, or perceive that you appeared as in any way a party thereto, I regret that I cannot comply with your request to grant you a copy of the record in question.

C.

From G. A. BALLARD, Esq., Collector of Malabar, to the Tacharakovil Terumo'pad of Nellamboor, dated 1st November 1864, Miscellaneous, No. 167.

I have perused your petition dated the 7th September last. There is not sufficient reason for furnishing you with copies of the record therein prayed for. You state they are required for the recovery of unpaid Jenmo Bogam. For this, there is the Karar that is executed between the parties, which is a sufficient document to go upon.

*Proceedings of the Madras Government, Revenue Department,
8th March 1865.*

D.

COPY.

Proceedings of the Board of Revenue, dated 16th January 1865, No. 235.

Read the following letter from G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Calicut, 21st December 1864, No. 315.

1. In reply to the endorsement noted, I have the honor to observe that the Petition from the Nelambur Rajah is apt to mislead, as it conveys the impression that the records, copies of which have been refused by me, relate to an inquiry ordered by the Collector and conducted as a revenue inquiry. This is not the case.

On letter from Messrs. Boyson, Brockman and Prichard, dated 6th December 1864, in Board's Proceedings, dated 9th idem, No. 7,905.
To Board, dated 19th November 1864, herewith returned with enclosures.

The orders were issued by Mr. Conolly, not as Collector, but as Magistrate, and the inquiry was conducted by the Sheristadar as a Police officer.

2. As Magistrate, and on general grounds, I decline to give copies of the records, because I desire to check in every way the constant tendency there is in this District to make criminal proceedings the ground work or support of the assertion of civil rights. Nothing is more common than for pretenders, whose claims are weak, to get up a dispute regarding boundaries, or a charge of criminal trespass, in hopes of getting some support to their claims from interested or incautious expressions on the part of the Magistrate or witnesses in the case, regarding possession or civil rights.

3. As Collector, and on special grounds, I decline to give copies of these records, because as the Board are aware, the claims of the Nelambur Rajah to the slopes of the Western Ghats are not finally disposed of; and without clear cause shewn for the necessity of any records towards securing the ends of justice, I am not desirous of putting Government records, in any way alluding to the Rajah's territories or claims, into his hands.

1. Communicated to Messrs. Boyson, Brockman & Co., with reference to their letter, dated, 6th December 1864.

2. The Board of Revenue are not competent to order the grant of copies of magisterial proceedings.

(A true Copy and Extract.)

(Signed) W. HUDLESTON, Secretary.

To Messrs. Boyson, Brockman and Prichard, with a Petition and its enclosures returned.
Copy to G. A. Ballard, Esq., Collector of Malabar.

(True Copies.)

(Signed) J. OUCHTERLONY.

No. 122.

ORDER THEREON, 8th March 1865, No. 506.

The Board of Revenue are requested to call for the records in question, and inform the Government whether there is any objection to a compliance with Mr. Ouchterlony's request.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

To the Board of Revenue:

Exd. S. T. Augustin.

Received 1865 Dec 21st
of J. J. Fox & Co.
N. Y. 486.

From
J. J. Fox & Co.
New York

Dated 20th Dec 21st
Received 21st Dec 1865

Regulation under
the provisions of the
Act of the 20th Dec 1865
in relation to the
land dispute between
the State of New York
and the State of
New Jersey.

82-506.

The 1st of

Dec are the

present to

call for the

records in

the State of New

York.

like the New

is any objection

to a copy of the

records in the

State of New York.

No. 121 & 122.

William B. B. B.

John W. B. B.

in New York 1865