

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 641	Press ~~Mis.~~
396.397	
Dated	23 - 3 - 1868.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
23rd March 1865.*

No. 396. Read the following Proceedings of the Board of Revenue, dated 4th February 1865, No. 596.

Read the following letter from C. W. READE, Esq., Collector of South Arcot, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Cuddalore, 5th December 1864, No. 235 :—

1. In acknowledgment of the Board's Proceedings of the 5th October last, No. 6,545, I have the honor to report that the Ryots of Kottavacherry were sent for, and were in my presence duly made acquainted with the orders of the Board, and to render matters perfectly explicit, I drafted an order embodying the conditions as already detailed in paragraph 17 of my former letter, and as sanctioned in the Board's Proceedings recorded thereon.

2. My order was first read out and explained to the Ryots, and then a translation of it was furnished to them, and ten days were given to allow of their consulting together, and determining as to their acceptance or otherwise.

3. I have now received a registered petition from these parties, in which they distinctly state their unwillingness to pay any costs to Messrs. Pedroza and Keess, and they further refuse to furnish security for a longer period than one year, which they declare to be in accordance with the practice of the District, and agreeable to the Durkhast Rules.

4. Under this refusal of the modified conditions offered, and especially adverting to their refusal even to give security for a period beyond one season, leaves the confirmation of possession to the present occupants no longer an open question, and I have only to recommend that under these circumstances the petition of these Ryots, objecting to the grant of the land to others, be dismissed.

5. I believe the Ryots cherished the hope that they would be assisted by others, but that they are wholly incompetent to undertake the cultivation of the land there is no doubt, while that they have been prompted in their opposition by a feeling of jealousy and dislike to the occupation, by strangers, of land within the limits of their own village is, I think, equally certain.

6. My own opinion is that by and bye these very Ryots will recognize and appreciate the advantage to themselves of having for their neighbours, men of the enterprise and intelligence of Messrs. Keess and Pedroza, whose example and diligence in turning their new acquisition to account, will stimulate the Ryots around them, and they cannot fail to benefit by the practical hints and suggestions for improved culture, which will gradually fall under their observation.

7. I await the Board's final instructions in this matter.

The Petitions Nos. 3,910 of 1863, and 2,457 and 2,633 of 1864 are returned.

ENCLOSURES Nos. 1 to 3.—Petitions.

1. Resolved that the above letter, together with the correspondence quoted in the margin, and the petitions to which reference is made,

From Collector, 4th February 1864, No. 21.
Board's Proceedings, 21st May " " 3,123.
From Collector, 23rd August " " 159.
Board's Proceedings, 5th October " " 6,845.

be submitted for the consideration and orders of Government, with the Board's recommendation that under all the circumstances of the

case, Mr. Reade may be permitted to retain Messrs. Keess and Pedroza in possession of the land referred to.

2. By a reference to the correspondence quoted, His Excellency in Council will observe that the case may be briefly stated as follows :—As far back as January 1861, a Durkhast was received from a resident in the adjoining District of Tanjore, for about 150 Cawnies of immemorial waste land, assessed at about Rupees 1,000, and situated in a village in the South Arcot District, the annual Beriz of which averages Rupees 2,000, and is paid by 112 resident Ryots.

3. As soon as notice was given, in the usual way, that such an application had been made, the resident Ryots objected to any portion of the lands of their village being made over to

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23rd March 1865.*

strangers, and offered to cultivate a considerable portion of the land themselves. As far as can be gathered from the correspondence, nothing further seems to have been done in the matter until October of the following year, when two East Indian residents of the Town of Cuddalore, Messrs. Keess and Pedroza, who had formerly been in the service of Government, and whose names have recently been brought to the favorable notice of Government in connection with certain agricultural experiments, made an application for the same tract of land.

4. In July 1863, Mr. Reade recorded an elaborate decision which forms the enclosure of his letter, dated 2nd February 1864, in justification of his having made over the land to Messrs. Keess and Pedroza. Though he acknowledges that his proceedings are at variance with the standing orders, he states that for several reasons he unhesitatingly adopted the course taken by him. Among these may be mentioned his belief in the impolicy of the existing orders on the subject of Ulkudi right; his opinion that the rules framed upon these orders admit of exceptions being made in certain cases; his knowledge of the poor circumstances of the resident Ryots of the village, who are stated to be constantly in arrears with the revenue payable on their existing cultivation; and, finally, his interpretation of the Durkhast rules as giving a Collector a discretion in disposing of lands in virtue of which he determined in the present case to give the land to persons residing in Cuddalore in preference to a resident in another District, notwithstanding that the latter was the first applicant for the land.

5. As soon as this order was issued, the resident Ryots appealed to the Board, by whom their petition was referred to the Collector for report. In February 1864, Mr. Reade forwarded a copy of the order referred to in the previous paragraph as containing all the information necessary to enable the Board to come to a decision, and added that the Ryots of the village were, at the time of his writing, in arrears with the revenue of the current Fusly, while the waste land was already in process of cultivation by Messrs. Keess and Pedroza.

6. The Board gave the case every consideration, and carefully weighed all the arguments brought forward by Mr. Reade in justification of his departure from the course of procedure laid down in the standing orders, but were unable, with a due regard to the instructions both of the Home and the Local Government on the subject, to sanction Mr. Reade's proceedings even as a special case. As the subject of the Ulkudi right had been specially discussed in the Order noted in the margin, Mr. Reade was supplied with a copy of that Order.

22nd September 1860, No. 1,689.

7. On receipt of the Board's orders, Mr. Reade informed the villagers that they should be placed in possession of the land on condition of their giving effectual guarantees for the due payment of its revenue for the next ten years, and on their consenting to pay to Messrs. Keess and Pedroza the amount of their outlay, plus the revenue for Fusly 1273, which they had been required to pay though they had obtained no returns from the land during that Fusly.

8. The resident Ryots declined these conditions, and when reporting the matter for the further orders of the Board, Mr. Reade remarked that had he been aware of the instructions laid down in the Order of Government, a copy of which had been forwarded to him, he would have adopted a different course of procedure. He further suggested three plans for disposing of the case; first, that Messrs. Keess and Gibbs should be retained in possession of the land unless the villagers agreed to the terms detailed in the previous paragraph; second, that those terms should be modified so far as the revenue for Fusly 1273 was concerned, the amount being refunded to Messrs. Keess and Gibbs by Government, and not by the resident Ryots; third, that the Government should be requested to permit Messrs. Keess and Gibbs to retain the land as a special case.

9. The Board having sanctioned the adoption of Mr. Reade's second proposition, the letter recorded at the head of these Proceedings reports that the terms offered them have been rejected by the resident Ryots. They decline to repay to Messrs. Keess and Pedroza the outlay which they have incurred, and they decline to give security for the payment of the revenue of the land for more than one year.

*Proceedings of the Madras Government, Revenue Department,
23rd March 1865.*

10. The Board consider that the Government, acting for the common weal, is entitled in special cases to demand good security for the payment of the public revenue with which the land* is charged. They are also of opinion that Messrs. Keess and Pedroza had a fair claim to be reimbursed for any expenses they had incurred in consequence of their having been placed in possession of the land under the Collector's orders, and as the resident Ryots have refused to comply with either of the conditions required, the Board have no further hesitation in making the recommendation contained in the first paragraph of these Proceedings.

* Vide paragraph 30, Court's Despatch, No. 17; dated 17th December 1856.

11. The Board observe that the claims of the resident Ryots ought to have been definitively disposed of when the application made for the land in 1861 was first received, as a portion, at least, of the delay which has occurred in the disposal of the case would thus have been saved.

No. 397.

ORDER THEREON, 23rd March 1865, No. 641.

Land Revenue.

Under the circumstances stated, the Government adopt the recommendation contained in paragraph 1 of the Board's Proceedings. They observe that the land is "Immemorial Waste," and that the resident Ryots evidently hold as much land already as they can manage to cultivate.

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

3

No. 3,123.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 21st May 1864.

Read the following letter from the Collector of South Arcot, dated Cuddalore, 4th February 1864,
No. 21 :—

1. In acknowledgment of the endorsement on Board Petition No. 3,910 of 1863, calling for a brief report, I think it sufficient to lay before the Board copy of my draft order in the case of the Durkhasts to which the Petitioners allude. This document will fully explain the entire history of the case, and will show the Board that I personally visited the locality, and gave to the matter the utmost consideration.

2. It is worthy of addition that in the current year the present Petitioners have been unable to cultivate their own holdings, and that they are already applicants for remission on the ground of partial destruction of crops by the heavy rains in December last; so that had the lands to which they assert a priority of claim been made over to them, the loss to the revenue would have been considerable, whereas under the arrangement made by me the revenue for the newly appropriated land is secured, and the land itself has been brought under partial culture and management through the energy and outlay by those to whom I thought proper to assign it for the reasons so fully detailed in the accompanying order recorded at the time.

ENCLOSURE No. 1.—Order.

1. The Board have given their careful consideration to the case submitted in the above letter, and have duly weighed all the arguments adduced by Mr. Reade in support of his proceedings as therein reported.

2. The preferential right of resident Ryots to the lands of their village have been so repeatedly laid down both by the Government and by the Home authorities that the Board do not feel themselves competent to sanction Mr. Reade's deviation from existing practice even as a special case.

3. Mr. Reade's proper course of proceeding would have been to have complied with the residents villagers' application, provided they gave effectual guarantees for the payment of the Government revenue. If they had failed to find such security he would then have been in a position to dispose of the land as he thought best for the interest of the State. Mr. Reade will now be good enough to adopt this course. The most recent Order of Government on the subject under discussion is that dated 22nd September 1860, No. 1,689, and of this Order Mr. Reade will be supplied with a copy.

(A true Copy and Extract.)

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

To C. W. Reade, Esq., Collector of South Arcot,
with copy of Government Order dated 22nd September 1860, No. 1,689.

Ed. J. Wright.

No. 6545.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 5th October 1864.

Read the following letter from C. W. READE, Esq., Collector of South Arcot, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Tindevanum, 23rd August 1864, No. 159:—

1. I have the honor to acknowledge the Board's Proceedings of the 21st May last, enclosing for my information copy of an Order of Government, dated 22nd September 1863, No. 1,689, on the question then brought before it on the relative right to land, by Durkhast, of resident and non-resident Ryots in a village.

2. I have further to acknowledge the Board's second endorsement, dated 6th June 1864, on Petition No. 3,910 of 1863, referring me to their orders as above, and another later endorsement, dated 8th instant, on a Petition to their address of the 16th July last.

3. The foregoing Proceedings of the Board, and the subsequent Petitions received from your office as above, all related to the same matter, and are in reference to my report of the 4th February of the current year, No. 21, recorded at the head of the aforesaid Proceedings.

4. Had I been aware of the order of Government of September 1860, with a copy of which, for the first time, I have now been favoured, I should have been more careful probably in dealing with the case of these Petitioners, and should have guarded my proceedings from any charge of apparent injustice or neglect of previous orders.

5. Before pursuing the present case further, and explaining the course which it has now devolved on me to adopt, I will merely express my gratification at finding that the views of the Board on the question mooted then, and now, so coincides with my own; but I quite recognize the force of the ultimate decision of the Government, and that decision in its spirit will, of course, be my guide in future instances of a like kind. I have always considered, in the words of the Government order, that "the Ulkudi right, as it is called, is a fict incident to land in this country, and that capitalises, as truly stated by the Board in the question (properly given), cannot fairly claim to acquire land, except in subordination to existing rights." But I was not before aware that Government entertained so very strong and decided an opinion on this point as these orders lay down.

6. In the case under reference, notwithstanding the difficulties in retracing my steps in view to give effect to the present instructions of the Board, I at once acted on those instructions. I sent for all the Ryots interested, and informed them of the result of their appeal, and I explained to them that while I was fully prepared to resume the land in their favor, this could obviously only be done on such conditions as would involve no loss or injustice to those who had been placed in possession, and whom it was now proposed to oust for their benefit.

7. After considerable discussion with the assembled Ryots, and after noticing the fact that they were annually in arrears with their present holdings, I drew up, in writing, the conditions on which alone I considered it would be just and equitable to require of the present occupants to relinquish possession in their favor, and the nature of these conditions, as well as their necessity, was carefully explained to them.

8. A copy of the conditions is herewith separately submitted for the Board's information, marked A, and I think nothing will be found in them beyond what is strictly just and proper. Indeed, as the case stands, I see not what else was to be done. The assessment has been paid in full on demand by Messrs. Keess and Pedroza for Fusly 1273, notwithstanding that the land was turned to no account during the past year, and that they have been laying out capital on its improvement in view to profitable returns in time to come.

9. It must be remembered that had the land been given to these Petitioners at the period when I decided to make it over to Keess and Pedroza, it would only have been on precisely the same terms as regards payment for the current year's revenue; those terms were not

PROCEEDINGS OF THE BOARD OF REVENUE,

No.

Rev: 344/65.

1864. Department

*End: in Rev. Secy of the
Board of Revenue to the
Collector of South Arcot
at Tindevanum, 23rd Aug 64
No. 159/63. 11.5.36*

Dated 21st May 1864.

21-5-64 P.B.

No. 3,123.

Declining to sanction Mr. Reade's proceedings in regard to the application of the Petitioners in Board Petition No 3910 of 1863 and pointing out the course that ought to have been pursued.

only usual in like cases, but the Petitioners themselves expressly volunteered to accept them; so that, as regards the re-payment by them to Messrs. Keess and Pedroza of the land revenue for the year just closed, no sort of injustice or deviation from usage is involved, and they will merely occupy the position which would have been theirs, had the land been originally made over to them, and the assessment been exacted at the past Jumma bundy. The only difference may be found in the fact (as I believe it would have happened) that there would have been the greatest difficulty in realizing the revenue, if at all it could have been realized, while, ere this, it is equally my belief, that the land would have been thrown up unless by accident any speculator had immediately been induced to purchase it of them.

10. The third condition relating to re-imbursement of outlay imposed by me is one which, I think, also binding on the Petitioners, and they cannot reasonably object to it. The amount to be settled by arbitration; or by a Panchayet to be mutually agreed on.

11. The first condition, guaranteeing the future annual revenue for ten years, is that suggested by the Board, and without the observance of which the Petitioners, of course, would at once place themselves out of count as it were.

12. The Board will observe that I gave the Petitioners ten days, extended afterwards to another ten days, to consider of these terms, and I further proposed to allow them three months time from the date of their accepting my proposals to carry them out.

13. Within a day or two after my interview as above, I received a Petition by post, objecting to the proposed terms. I simply endorsed that I would attend to no applications by post, and that my orders were final. The Petitioners then personally presented themselves before the expiry of the ten days, and stated that they would give the security for ten years from Fasli 1274, but would not agree to the other two conditions, either to pay the past year's revenue, or to re-imburse Messrs. Keess and Pedroza for their outlay on the land. I declined to argue the point further with them, observing that the conditions offered were final, and that on no other could the land be given to them. They then left the Cutcherry, and from that day they have not again appeared.

14. It remains to consider what is to be done in the matter, and how is the case to be disposed of. It is out of my hands, I presume, and it rests with the Board to uphold or overrule my past and present proceedings in the case, and to determine whether this land is to be taken from the present occupants and possession given to the Petitioners on terms other than those which I have appointed.

15. I enclose a Coolwar Statement, B, showing the arrears due by these very Petitioners on account of their existing petty holdings in this same village; and I may mention that annually they are claimants for remission, and annually there is great difficulty in collecting the Teerwah from them; but I am aware that this fact is quite apart from the question of their rights as Ulkudies; and, provided they give security for the future payment of the revenue due for this new land, their being defaulters cannot be urged as overruling their Ulkudi right.

16. My recommendation is that three months be allowed to elapse, as granted in my order of the 4th July, and if, in the interval, the Petitioners do not come forward, then, I think, that possession may, with perfect propriety and equity, be confirmed to Messrs. Keess and Pedroza, and the present appeal be dismissed.

17. Or if, in the Board's opinion, in virtue of their Ulkudi right, the Petitioners deserve more consideration, then I would propose that the sum paid as Teerwah by Messrs. Keess and Pedroza be, for the past Fasli 1273, re-imbursed to these latter persons from the public Treasury, and that the outlay only, to be ascertained as already directed by me, be paid by the Petitioners, a condition daily enforced and acquiesced in in similar cases between Ryot and Ryot, and to which strictly no objection can, with reason, be advanced; and with this payment, and after furnishing full and adequate security for the Government revenue for the next ten years, the land may be made over to them, and the present holders be required to vacate possession. I have prepared

Messrs. Keess and Pedroza for this result, and they are ready to obey any course which may be resolved on, though for all time and for all interests, the arrangement will be one very greatly to be deplored.

18. My own feelings, and I think they accord with the real merits of the case, incline me to adopt the course suggested in paragraph 16; but if, in furtherance of the strongly asserted views of Government, and echoed by the Board, the Petitioners, as Ulkudies, are deemed to have been in any degree hardly dealt with, then, I presume, the only way out of the difficulty is to refund the revenue paid by Messrs. Keess and Pedroza from the public treasury, and simply to require of the Petitioners the disbursement of the *bona fide* outlay, as recommended in paragraph 17, together with the ten years' guarantee of the land revenue.

19. The only other alternative that occurs to me is to submit the case, as an exceptional one, for the orders of the Government upholding my Proceedings under my avowed ignorance of the orders with a copy of which I have now only been furnished. I think there are features which render the case decidedly exceptional, and if the Board do not feel themselves authorized to support what I have done in the face of the expressed views of the Government on the question involved, I would submit that, as all rules are open to exception, the present is an instance which may specially claim the indulgence; and should the Board see any objection to adopt either of the other two courses I have ventured to suggest, I trust they will give their favourable consideration to this last proposition.

20. It is my hope that the Board will approve of what I have done subsequent to their orders now acknowledged in this somewhat difficult and delicate case, and awaiting their ultimate decision.

ENCLOSURE No. 1.—Correspondence.

ENCLOSURE No. 2

ABSTRACT.—Statement showing the Total Beriz collection and balance on those Ryots who had given Durkhast and to the lands made over to Messrs. Keess and Pedroza, in the village of Kothovachary, attached to Cuddalore Taluk.

1. The Board authorize Mr. Reade to act as he proposes in paragraph 17 of his letter above recorded. If necessary he will hereafter apply for sanction to refund to Messrs. Keess and Gibbs the amount collected from them on behalf of Government.

2. With reference to paragraph 4 of Mr. Reade's letter, the Board observe that the standing orders on the subject of the disposal of lands are quite clear, and that he should have been guided by those orders.

(A true Copy and Extract.)

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

To C. W. Reade, Esq., Collector of South Arcot.

Exd. J. Wright.

For Order.

The pt. has determined
not as a matter of poli-
tial right. but as one
of policy and a fair con-
sideration towards their
subjects, that the Resident
of a village shall
have the first offer of
his lands within its
limits, under certain
conditions for the security
of the Rest.

Mr. Reade was not
harrassed in deliberately
setting aside this rule,
without the slightest refer-
ence to the H. of Rest.

Examined the Proofs of
the 2nd Dec. 1864 and
found 2 1/2 Rs. 12 1/2 p. 1/2
1865-1866 6-
1864. Department

Dec: 31/65

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 5th October 1864.

E. 2 2 1/2 Rs.

No. 6,545.

Prescribing the course to be pursued in re-
gard to the Ryots who had given Durkhast
for the lands now held by Messrs. Keess and
Pedroza in the village of Kothavachary Cuda-
lore Taluk.

Should leave them in possession as cession
by the State. The local agents have, however, insisted
on the transfer of the land, and it seems
clear enough that they are doing in bad more than
they are doing in good - by.

By business the land
of the memorial "Wade"
and has been improved
by the L^d? Kees & Pedroza -
and as Peter are declared
L^d to have the means of
permanently taking it
up, while the rule of paying
them the preference does
not amount to a legal
right, and it is known
they might at any time
precious by have obtained
it, Messrs Kees & Pedroza might
I think be left in pos-
session.

The condition of 10 years
security seems due on all
reasons - I do

10. The Board consider that the Government, acting for the common weal, is entitled in special cases to demand good security for the payment of the public revenue with which the land* is charged. They are also of opinion that Messrs. Kees and Pedroza had a fair claim to be re-imbursed for any expenses they had incurred in consequence of their having been placed in possession of the land under the Collector's orders, and as the resident Agents have refused to comply with either of the conditions required, the Board have no further hesitation in making the recommendation contained in the first paragraph of these Proceedings.

(A true Copy and Extract.)

W. H. G. S. G.
Acting Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D.,
with copy of Board's Proceedings 21st May 1864, No. 3,133, and 5th October 1864,
No. 6,515, and enclosures of letters recorded in these Proceedings.
Copy to C. W. Reade, Esq., Collector of South Arcot.

Pr 22 April / 57 10 372
22 Sept / 60 - 211112

14th Dec 1865
14th Dec 1865

Under the circumstances
I stated the fact about the reason
then do the contained in him
if the 14th Dec. They then that
the land is "Buenavista" with
and that the land is situated
with as much land as they
can have built it. 14th Dec

Rev = 1865. Department.
Pres. of Govt for March

No. 344-
PROCEEDINGS OF THE BOARD OF REVENUE

Dated 4th February 1865.

Depy. Secy. -
Mr. Secy. -
C 2 with 30 Dec 1865
at 30 Dec 1865 (Ord)

No. 596.

Recommending that the Collector of South
Arcot be permitted to retain Messrs Keess
and Pedroza in the possession of certain land in
his District.

At 541. 25 March

With an Order