M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2588 Press Mis.

1938-39
Dated 7-10- № 1868

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 7th October 1868.

No. 138. Read the following letter from the Officiating Inam Commissioner, to the Acting Secretary to Government, Revenue Department, Fort St. George, dated Madras, 17th September, 1868, No. 55 :—

1. I have the honor to submit the following observations for the consideration of Government, with reference to their Order, dated 10th September, 1868, No. 2,354.

2. Mr. Norton considers the reissue of Title Deeds in a new and legal form to be necessary, on the ground that the title of Inamdars may at any time be questioned by third parties, inasmuch as the Title Deeds in the form in which they have hitherto been issued can convey no valid title. From his putting the case on this ground, Mr. Norton appears to have been led, by the ill-chosen phraseology of the Title Deed, to believe that the Title Deed issued by the Inam Commissioner was intended to convey a valid title to the Inamdar, not only as against Government but also as against all third parties. This, however, is not the case. The Title Deed is not intended to be conclusive evidence of the title of the person to whom it is granted, and the Courts are quite competent to declare that the person holding the Title Deed has no title whatever to the Inam, but that it vests in a third party. The Title Deed is, in fact, nothing more than a certificate intended to relieve the Inam from the operation of Regulation IV. of 1831, and to place it in the position of ordinary private property.

3. The above is also the opinion of the High Court, as will be seen from their decisions in Special Appeal No. 448 of 1864 and Special Appeal No. 451 of 1864, (pages 327 and 341 of Part III. Volume 2, Madras High Court Reports)

4. Under this view of the force of the Inam Title Deed, I think it is clear that the Title Deed cannot in any way affect the title of third parties, who are competent to prove their title in spite of the Inam Title Deed.

5. The point requiring Mr. Norton's consideration appears to me to be whether the Title Deed, in the form in which it has been issued, can be admitted in Courts as evidence of enfranchisement. If it cannot be admitted as evidence of enfranchisement, the Inam cannot be considered as having been exempted from the operation of Regulation IV. of 1831, and hence the necessity of issuing some document which would be admissible as evidence. On the other hand, if the Courts cannot question the validity of the enfranchisement, excepting in suits between the Government and the Inamdars, and if the Courts be considered to be bound to accept the Title Deed as evidence of enfranchisement without inquiring whether there has been a valid enfranchisement or not, then the necessity for the issue of a fresh Title Deed ceases.

6. I may also here observe that I cannot conceive any objection to the extract from the Inam Commissioner's Register being admitted in Courts as legal evidence of enfranchisement. This, however, cannot supersede the necessity of issuing fresh Title Deeds, as the Inamdars might justly complain of the hardship of being compelled to take extracts from the Registers on account of a mistake for which they are in no way responsible. The extracts were only intended to serve as evidence of enfranchisement in those cases where the Title Deeds were lost or otherwise not forthcoming.

7. There is one more point which I should not omit to notice here. I gather from Mr. Norton's letter that the Title Deeds in the new form should be issued in the names of the *present* holders, and not in the names of those with whom the settle-

ment was concluded. This measure involves a certain amount of further inquiry in the districts, and alteration of the Registers, which it is desirable to avoid if possible. There is no doubt that many of the Inamdars with whom the settlement was concluded are not now alive, and it would certainly be absurd to issue Title Deeds in the names of deceased persons. This difficulty can perhaps be met by so framing the Title Deed as to make it simply a certificate of enfranchisement without mentioning the name of the existing holder.

No. 139. ORDER THEREON, 7th October, 1868, No. 2,586.

Land Revenue.

Referred to the Advocate General for any observations he may desire to make.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Advocate General.
,, the Officiating Inam Commissioner.
,, the Board of Revenue.

Exd. F. R. Bartleman

Govt. of [1868] Madras.

REVENUE.

To

THE ADVOCATE GENERAL.

&c., &c., &c.

Dated October, 7th,

Recd.

Dead.

C. O., 7th October 1868, No. 2,580.

OCTOBER.

Nos. 133-139.

Inam Title Deeds—Inam Commissioner's observations regarding the reissue of Inam Title Deeds, referred to the Advocate General for report.

R. P. 3

Memo: for orders
on No 2990.

The Inam Commissioner points out that in his report regarding the invalidity of the Inam Title Deeds, the Advocate General has fallen into an error, inasmuch as he has supposed that those Deeds granted absolute titles to the grantees. This view was also entertained by Mr. Knigersby when Judge of Rajahmundry but was overruled by the High Court in the two decisions which Mr. Blair quotes.

It seems to me however that Mr. Blair relies too implicitly

implicitly on these judgments. They were quite in reference to enfranchised Inams only - Now, there are a very large class of Inams, Religious Service, few which cannot be enfranchised, and the enfranchisement of personal Inams was in many cases optional, so that the Title Deed in these cases, cannot be "merely evidence of enfranchisement."

In these cases the document is apparently evidence that the Govt. have given up their right to the full assessment of certain land, and if that document is found to be in the wrong form for effecting this, it is certainly the duty

duty of Govt: to remedy this defect - The Inamdar might be seriously injured if this were not done - For instance, a Service Inamdar whose tenant refuses to pay rent denies to the him, and files his Title Deed in Court as proof that he is the Inamdar, but the Court cannot admit the document as it is not in proper form.

And even in regard to enfranchised Inam - though the document may not be conclusive evidence of Title, it must be considered as subsidiary evidence, and as such if in an inadmissible form, an injury will be

be done to the Inmates.

However, I presume the best course will be to refer the Insane Commissioner's letter to the Advocate General merely remarking that the Court has apparently overlooked the large number of Insane which have not been enfranchised.

Sworn simply refer to the Advocate Genl for any observation he may desire to make.

25 Feb 68.

Lett from Miller

5

№ 2586.

Referred to the Advocate General for any observation he may desire to make

[illegible] 1868

3 Blues Folio Advocate Genl Dept
8 " Offg. Insane Commrs
14 " P.S. of Blues

45
4

Letter from Office of Lunacy Commissioners dated 17th October 1868 Reference to the Statute 29 & 30 Victoria Cap 55. Order of Commencement of Act 10th September 1868, & 23 & 24 Victoria Cap 107 Sec 4 Submitting certain observations regarding the exclusion of Insane Lunatics from the Franchise.

1868 Oct 19 Secretary of State for War

Copy sent to Adjutant General

Copy sent to Secretary to Govt Revenue Department Fort William

Copy sent to Surgeon Fort William

10/11/68

4-11-27 [illegible]

1388/39

28 Feb 1869