

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 453	Press ~~Mis.~~
371-372	
Dated 20-2-1866.	

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
20th February 1866.*

No. 371. Read the following Proceedings of the Board of Revenue, dated 23rd January 1866, No. 545.

Read the following letter from the Registrar General of Assurances, to the Secretary to the Board of Revenue, dated Madras, 4th January 1866, No. 2 :—

1. I have received intimation that the Registration Act is about to be remodelled, and have been requested to state, among other points, whether any modification is necessary in that part of Section 13 of Act XVI. of 1864, which makes the registration of leases between Landlord and Tenant relative to land in this Presidency liable to the payment of Revenue to Government, optional; whereas in the other Presidencies there is no such exemption.

2. There is no information in the records of my Office with regard to the circumstances which led to the insertion of this proviso ; but as there is a similar exemption in Article 42 of Schedule A of Act X. of 1862, it seems probable that it was in both cases introduced with special reference to the extensive prevalence of the Ryotwar form of settlement in this Presidency, and as the correspondence relating to this point must have passed through the Board, I should be glad to receive any information which can be communicated to me on the subject.

3. I beg also to be favored with the Board's opinion on the following points :—

First.—What tenures come under the head of land paying revenue to Government ? What are the tenures which do not come under it ?

Second.—Are the terms landlord and tenant, as used in Section 13 of Act XVI. of 1864, synonymous with the terms landholder and tenant, as defined in the Madras Act No. VIII. of 1865 ?

Third.—Is the term lease, as used in Section 13 of Act XVI. of 1864, synonymous with the Puttah described in the Madras Act No. VIII. of 1865 ?

Fourth.—Adverting to the general rise in the prices of grain, the revision of the settlement, the improvement in the condition of the Ryots, and the increased value of land, is it necessary to maintain the existing distinction between Madras and the other Presidencies ?

1. The Board observe that the exemptions under Article 42 of the Stamp Act, No. X. of 1862, are two in number. One, a *general* exemption of "any lease executed to a Ryot, or other actual cultivator, provided that no fine or premium be paid as part of the same transaction ;" the other, a *special* exemption for Madras only, of "every lease or other engagement executed between Landlord and Tenant relative to land in the Presidency of Madras, subject to the payment of revenue to Government."

2. In the original Stamp Act (XXXVI. of 1860,) this special exemption extended also to Bombay.

3. When the Bill, which is now Act X. of 1862 was under consideration, the propriety of continuing the special exemption was considered, and the Board and Government then recorded their opinion that it would be very undesirable to withdraw it, on the ground that sub-tenants under Ryotwary landlords were only slowly coming into existence as a numerous class, and that any tax which would operate to reduce the margin for profitable sub-tenancy, or oppose any obstacle to the execution of written engagements in such cases, such as the payment of Stamp

*Proceedings of the Madras Government, Revenue Department,
20th February 1866.*

duty, and the necessity of using stamp paper in such petty transactions in remote villages would probably prove, should be deprecated on grounds of general policy.

4. The Board see no reason to alter these views on the point which has lately been again brought under their consideration in connection with the contemplated revision of the Stamp Act, and the same arguments would apply with still greater force in favor of the exemption under the Registration Act, being retained, were that exemption precisely similar to the one provided in the Stamp Act, but in fact there is a highly important distinction between the two. The Stamp Act affects *all* leases without reference to their duration. The Registration Act applies only to leases for any period *exceeding one year*, and it does not appear to the Board necessary, in order to encourage the use of written engagements between Landlord and Tenant, that leases for periods exceeding one year should, in this Presidency, be exempted from registration, when such registration is necessary in the other Presidencies to make them valid in law.

5. It may safely be assumed that where such a lease is executed, the interest conveyed is really valuable, and such as it is desirable to protect by all the means provided by the law.

6. It is also probable that the cases will be comparatively few in number, and thus that a requirement, which will give added security to both parties, is not likely to check the use of written engagements between Landlord and Tenant permanently, or even temporarily to any perceptible degree.

7. Under these circumstances, and in view of the importance of encouraging registration by all legitimate means, the Board are of opinion that the existing exemption need not be retained, provided that the general requirement of the law remains as at present inapplicable to leases for one year and under, it being distinctly understood that the term "lease," as used in the Registration Act, does *not* include the "Puttah" of the Madras Regulations and Acts.

8. After the foregoing expression of opinion, the Registrar General will probably not care to obtain answers to his remaining queries, which as the Board are not competent to give authoritative interpretations of the law, they would be averse to offer, except on an individual case being submitted to them in full detail of facts.

No. 372. ORDER THEREON, 20th February 1866, No. 453.

Separate Revenue, No. 18.

Stamps.

Ordered to be recorded.

(True Extract.)

(Signed) J. GROSE,

Acting Under Secretary to Government.

To the Board of Revenue.

Exd. S. T. Augustin.

No. 545.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 23rd January 1866.

Read the following letter from Major R. M. MACDONALD, Registrar General of Assurances, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Madras, 4th January 1866, No. 2:—

1. I have received intimation that the Registration Act is about to be re-modelled, and have been requested to state, among other points, whether any modification is necessary in that part of Section 13 of Act XVI. of 1864, which makes the registration of leases between Landlord and Tenant relative to land in this Presidency liable to the payment of revenue to Government, optional, whereas in the other Presidencies there is no such exemption.

2. There is no information in the records of my Office with regard to the circumstances which led to the insertion of this proviso; but as there is a similar exemption in Article 42 of Schedule A of Act X. of 1862, it seems probable that it was in both cases introduced with special reference to the extensive prevalence of the Ryotwar form of settlement in this Presidency, and as the correspondence relating to this point must have passed through the Board, I should be glad to receive any information which can be communicated to me on the subject.

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Fourth.—Adverting to the general rise in the prices of grain, the revision of the settlement, the improvement in the condition of the Ryots, and the increased value of land, is it necessary to maintain the existing distinction between Madras and the other Presidencies?

1. The Board observe that the exemptions under Article 42 of the Stamp Act, No. X. of 1862, are two in number. One, a *general* exemption of "any lease executed to a Ryot, or other actual cultivator, provided that no fine or premium be paid as part of the same transaction;" the other, a *special* exemption for Madras only, of "every lease or other engagement executed between Landlord and Tenant relative to land in the Presidency of Madras, subject to the payment of revenue to Government."

2. In the original Stamp Act (XXXVI. of 1860,) this special exemption extended also to Bombay.

3. When the Bill, which is now Act X. of 1862 was under consideration, the propriety of continuing the special exemption was considered, and the Board and Government then recorded their opinion that it would be very undesirable to withdraw it, on the ground that sub-tenants under Ryotwary landlords were only slowly coming into existence as a numerous class, and that any tax which would operate to reduce the margin for profitable sub-tenancy, or oppose any obstacle to the execution of written engagements in such cases, such as the payment of Stamp duty, and the necessity of using stamp paper in such petty transactions in remote villages would probably prove, should be deprecated on grounds of general policy.

4. The Board see no reason to alter these views on the point which has lately been again brought under their consideration in connection with the contemplated revision of the Stamp Act, and the same arguments would apply with still greater force in favor of the exemption under the Registration Act being retained, were that exemption precisely similar to the one provided in the Stamp Act, but in fact there is a highly important distinction between the two. The Stamp Act affects *all* leases without reference to their duration. The Registration Act applies only to leases for any period *exceeding one year*, and it does not appear to the Board necessary, in order to encourage the use of written engagements between Landlord and Tenant, that leases for periods exceeding one year should, in this Presidency, be exempted from registration, when such registration is necessary in the other Presidencies to make them valid in law.

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(A true Copy and Extract.)

L. Rudraiah

Secretary.

To Major R. M. Macdonald, Registrar General of Assurances.

Copy to J. D. Sim, Esq., Secretary to Government, R. D.

Exd. J. Wright.

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14 to the Board of Revenue

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 23rd January 1866.

Despatched 31

Received 1st Feb.

No. 545.

No. 358.

Rev. 1866. Department.
210. of Govt. Secy.

Giving opinion on Section 13 of Act XIV. of 1864 regarding the registration of leases between Landlord and Tenant being exempted from payment of Stamp duty.

MR

28.4.65

20.2.66