MR. O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No.	680	Press Mis.

121-22
Dated 10-5-1870 19 .

Not to be folded or roughly handled

No. 121. Read the following Proceedings of the Board of Revenue, dated 22nd February 1870, No. 1,235 :—

Read the following letter from the Collector of Vizagapatam, to the Acting Secretary to the Board of Revenue, dated 21st December 1869, No. 768.

I HAVE the honour to forward copy of a letter from my Assistant Mr. Johnson, on the subject of the alienation of the emoluments attached to the office of Curnums in permanently settled Estates, which is in this district a question of much importance.

2. Mr. Johnson brings to notice a case in which three-fourths of the Curnum's emoluments in a certain village have been decreed away from the office by the decision of the Civil Court upon a Deed of Gift; the Decree of a District Moonsiff to this effect having been upheld on appeal by the Civil Court.

3. In this case, although the interests of Government were affected, the Government were not represented, and it is only casually that the alienation of this Service Inam has been brought to notice.

4. I do not believe that it was the intention of the Legislature, in framing Section 8 of Regulation VI. of 1831, to allow the emoluments of Curnums in permanently settled Estates to be alienable, or to be subject to the ordinary jurisdiction of the Courts.

5. Regulation VI. of 1831 gives authority of two kinds to Collectors: *first*, for the custody of emoluments set apart by the State for payment of certain public services; and *secondly*, it vests them with the sole authority of declaring who are entitled to hold such emoluments.

6. I take it that Section 8 of the Regulation applies to the latter authority. Under Regulation XXIX. of 1802 this, as regards Curnums in permanently settled Estates, is vested in the proprietors of such Estates; but as there is nothing in that Regulation to prevent the alienation of such village officers' emoluments, it follows that if they are exempted, *quo ad* the guardianship of such emoluments from the provisions of Regulation VI. of 1831, there is no power to prevent the universal alienation of such emoluments, concerning which no officer but the Collector has any power to interfere.

7. I beg that a legal opinion may be taken on this point, and, if necessary, that legislative steps may be taken to vest in Collectors the power of preventing the alienation of Curnums' emoluments in permanently settled Estates.

ENCLOSURE No. 1.

From the Assistant Collector, to the Collector of Vizagapatam, dated 19th December 1869.

BEING in doubt as to the proper interpretation of Section 8 of Regulation VI. of 1831, I have the honour to request that you will favour me with your opinion on the same.

2. That Section declares that nothing in the Act shall affect the office of Curnum in permanently settled Estates, the succession to such having been already arranged for by Regulation XXIX. of 1802. Now the provisions of Regulation VI. of 1831 relate to two different subjects;

first, the hereditary village offices, and, *second*, the emoluments attached to them. This is distinctly stated in Section 3, Clause I. Of these two, Section 8 mentions only one, viz., the office of Curnum; this having been provided for elsewhere, it will be observed that no provision is there made for the enjoyment of emoluments. I believe therefore that Section 8 does not intend to withdraw suits for the enjoyment of Curnums' emoluments from the operation of the Act.

3. If I do not mistake, you have yourself informed me that your opinion coincided with mine on this point. I find, however, that the practice here has been to leave such suits to be tried by the Civil Court, and I have now before me a case in which, on the strength of a Deed of Gift, the Civil Court has decreed that a Brahmin doing no service-work shall hold 9 garce of land belonging to a Service Inam, while the person who was actually performing the duties, and was the direct heir of the original Inamdar, is left in possession of 3 garce.

4. Should the practice in force here be correct, I cannot of course interfere in this matter, which seems to me most clearly to require a settlement on grounds more compatible with the ordinary State policy with regard to Service Inams.

5. Should your opinion, however, coincide with mine, I should be glad if you would request Government to give an authoritative decision on the point in question.

THE Collector of Vizagapatam brings to notice a case in which three-fourths of the emoluments attached to the office of Curnum in a village belonging to a permanently settled Estate have been alienated by a Decree of the Civil Court of Vizagapatam. The Collector is of opinion that the action of the Court was barred by Regulation VI. of 1831, notwithstanding that Section 8 lays down that "nothing contained in this Regulation shall be construed to effect, etc.," and requests that legal opinion be obtained on the point, which is one of great importance as regards Zemindary Districts. It is obvious that if the decision of the Court in this instance is correct, there is nothing to prevent the universal alienation of Curnums' Inams in all settled districts.

2. The Board observe that it has been frequently ruled by the late Sudder Adawlut, as shown in the cases cited in the margin,* that even under the provisions of Regulation 29 of 1802,' the Inams attached to Curnums' offices in settled districts are not alienable. It may further be observed that the Service Inams in settled estates were excluded from the Permanent Settlement, and are, therefore public property.

* Select Decisions No. 1 of 1819, I. 214.
Do. ,, 85 ,, 1844, II. 85.
C. O. S. U., 30th August 1851, No. 122.

3. All Collectors are requested to state what means they have of protecting the public interest in similar cases, and whether the Courts have been in the habit of recognizing such alienation in their respective districts.

4. The Board resolve to submit the correspondence to Government, with a view to the opinion of the Advocate-General being taken. The Collector should have submitted copies of the Decrees alluded to, and should at once send them.

Proceedings of the Madras Government, Revenue Department,
10th May 1870.

No. 122. ORDER THEREON, 10th May 1870, No. 680.

Miscellaneous.

THE Government request that copies of the Decrees in question, which have already been called for by the Board, may be forwarded for their inspection.

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

To the Board of Revenue.

Exd. F. R. Bantleman.

Govt. of India Circulars.

REVENUE.

To

THE BOARD OF REVENUE.

Dated May, 10th.

Rec'd.

G. O., 10th May 1870, No. 683.

MAY.

Nos. 121-122.

Endorsements of a Collector in Telegraphic Dispatch.—Board of Revenue to furnish copies of the Decrees which led to their execution by three Peons.

No 682 for Madras

It is submitted that in referring the question to the Govt Pleader, it will be as well to ask whether an enactment is not required. It will be observed that in spite of the decided instructions of the late Indian Court some of the Original Courts allow the enrolments of the Coomans Office in permanently attached Inams to be treated as private property,

* The Bill regarding the Adjustment Inam, but he will require a fee in such a matter, which falls properly into the Madras dept.

and on the interests
of the State it is essential
that this should be
prohibited by law.

RWD.

Reg. VI of 1831 does
not apply at all.
& Reg. XXIX of 1802
does not prevent that
alienation. Except
if the lands have
been vested under
Sect IV Reg XXV of 1802
for which a right of
action - but this is
a short process.

I think we
had better call for
the decree - and
see exactly what
has been done by

The first Member will
not advise without
having them - I appre-
hend that Legislative
action is necessary.

J. DS.

N. P.
Cuttack 8/4.

Revenue Department
No. 680.

Proceedings of the Madras Government
Under date the 10th May 1870

Read the following
Proceedings of the Board of Rev:

Submitting letter from Collr. of Vizagapatam bringing to notice that three-fourths of emoluments attached to office of Curnum of a village belonging to a permanently settled estate have been alienated by a decree of Civil Court and requesting to obtain opinion of Advocate-General as to authority of Court in this respect. - (H. C. 22d Feby: 1870 No. 1235)

The Government request that copies of the decrees in question which have already been called for by the Board, may be forwarded for their inspection.

14 Fo. to Board of Revenue

Emoluments of Curnums of villages in Permanent Estates

