

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1472	Press Mis.
607-608. Dated	27-5-1868.	

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
27th May 1868.*

No. 607. Read the following Proceedings of the Madras Government in the
Military Department :—

Communicating to the Revenue Department
papers relative to obtaining possession of a
piece of land, within the Cantonment of Man-
galore, held under a lease from Government
in favor of Mr. H. Atkinson. } (Here enter 12th May 1868, No. 1,907.)

No. 608. ORDER THEREON, 27th May 1868, No. 1,472.

Miscellaneous.

1. Communicated to the Board of
Revenue, with copy of G. O., Military
Department, No. 748, dated 1st March
1867, and No. 171, dated 14th January 1868.

2. The Board will instruct the Acting Collector of Canara to take the necessary
steps to recover possession of the land for Government, by a suit for ejectment
against the parties in possession.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Board of Revenue, with Proceedings Military Department,
Nos. 1,907 and 748 of 1867, and No. 171 of 1868,
„ the Military Department.

Exd. S. T. Augustin.

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MILITARY DEPARTMENT.
PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

Memo. from the Quarter Master General..... Here enter 10th March 1863, No. 2024.
From the Government Solicitor..... „ 16th April „ „ 225.
Memorandum from the Quarter Master General, Fort Saint George, 10th March 1868, No. 2024; to the Secretary to Government, Military Department.

Forwarded for the orders of Government on paragraphs 2 and 3 of the within letter, with reference to Proceedings of Government, No. 171, dated 14th January 1868.

From the Officer Commanding Mangalore, 11th February 1868, No. 17; to the Quarter Master General, Fort Saint George.

With reference to Proceedings of the Madras Government, Military Department, No. 171, dated 14th January 1868, I have the honor to report, for the information of His Excellency the Commander-in-Chief, that in accordance with the above Order of Government, I notified to Mr. G.

Coelho,* on behalf of his sister, Mrs. Elizabeth Coelho, that the lease of the ground lately held by her had been cancelled, and called on him to give up possession of the same without delay. He in reply declines doing so for reasons given in his memorandum, dated 9th February 1868, attached.

2. I would at once commence a suit against Mrs. Coelho, as sanctioned by Government, did I not feel that this mode of procedure will probably cause great delay before the land in question is handed over to me, as it is likely a series of suits will have to be instituted, and, appeals made on the decisions of these suits, by the opposing parties. I would therefore respectfully solicit His Excellency to obtain the sanction of Government, for the Magistrate of this District taking possession of the ground, and allowing the opposite side to prosecute: this course, should it be deemed legitimate, will bring the real owner to the front. At present, as has already been brought to notice, Mr. G. Coelho, on behalf of his sister, states that the property has been sold to a Mr. Laurence Lobo, who, again distinctly and emphatically denies having purchased the same. A suit is pending in the Munsiff's Court at this station regarding the matter.

3. Should the Government however deem my proposition to be inexpedient and decide that the course already sanctioned should be pursued, I would suggest that the Magistrate be called upon to institute the suit. My reasons for proposing this are on account of the probability of my being obliged shortly to leave Mangalore on account of ill health, and the fear of the suit being lost in consequence of change of prosecutors, and other obvious reasons, which contingency would be avoided to a great extent were the Collector to take the matter in hand.

4. I shall feel obliged by your doing me the favor of returning the accompanying memorandum from Mr. G. Coelho, as well as all the documents forwarded with my letter No. 211, dated

12th December 1866,† connected with this matter, as the papers may be required at some future date as evidence.

† Forwarded through the Brigadier.

B.

No. 12.

MEMORANDUM.

The undersigned has the honor, by order of the Officer Commanding the Station, to inform Mr. G. Coelho, on behalf of Mrs. Elizabeth Coelho, that the lease of the ground on which the house stood, lately occupied by Lieutenant R. Thompson, Royal Artillery, and destroyed by fire in June 1866, situated within the limits of the Military Cantonment of Mangalore, and belonging to Mrs. Elizabeth Coelho is cancelled—vide Proceedings of the Madras Government in the Military Department, No. 171, dated 14th January 1868—and that she has no further claim to the above-mentioned ground.

You are therefore required forthwith, on behalf of Mrs. Elizabeth Coelho, to give up possession of the same to the Officer Commanding Mangalore, failing which, proceedings will be instituted against Mrs. Elizabeth Coelho in accordance with the orders of Government.

MANGALORE, }
7th February 1863. }

(Signed) A. W. FOORD, Lieutenant,
Station Staff Officer.

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MEMORANDUM:
With reference to the Station Staff Officer's memorandum of the 7th instant, No. 12, the undersigned begs to inform him, that the ground therein alluded to is not in the possession of his sister, Mrs. E. Coelho, who sold it to Mr. L. Lobo in September 1866, as already brought by him to the notice of the Officer Commanding Mangalore.

MANGALORE,
9th February 1868.

To the Station Staff Officer, Mangalore.

(Signed) G. M. COELHO.

Referred to the Honorable the Advocate General for opinion, through the Government Solicitor.

3rd April 1868.

From the Government Solicitor, Madras, 16th April 1868, No. 225; to the Officiating Deputy Secretary to Government, Military Department, Fort Saint George.

I have the honor to acknowledge the Order of Government, noted in the margin, with its enclosures, requesting the Advocate General's opinion as to the proceedings to be adopted for obtaining possession of a piece of land within the Cantonment of Mangalore, held under a lease from Government in favor of Mr. H. Atkinson.

2. Having obtained from the Quarter Master General's Department a copy of the lease above referred to and all the past correspondence relative to the subject, I have submitted the matter for the consideration of the Advocate General, and I now forward a copy of his opinion.

3. I likewise return the Order and enclosures above noted.

OPINION.

1. It appears that the lease was granted to one Mr. H. Atkinson. How the property in it passed to Miss Coelho does not appear. I presume there must have been an assignment.
2. There has clearly been a breach of covenant. Under the covenant to repair the lessee and his assignees are bound to re-build, even though the premises have been destroyed by accidental fire.
3. The lease contains a proviso for re-entry on breach of covenant.
4. Under this, the Government has a right to eject the tenant, be he who he may.
5. It is asserted by Mr. Coelho that the premises have been sold by his sister to a Mr. L. Lobo.
6. Mr. Lobo denies this.
7. The proper course is to sue to eject both.

16th April 1868.

(Signed) JOHN BRUCE NORTON,

Advocate General.

ORDER, No. 1907, 12th May 1868.
Ordered that the papers above recorded, be communicated to the Revenue Department, with a request that the Magistrate of South Canara may be instructed to institute suits as pointed out by the Advocate General, for the recovery of the land alluded to.

(True Extract.)

John Bruce Norton

Major,

Offg. Deputy Secretary to Government.

To the Quarter Master General, with two enclosures.
.. Government Solicitor.
.. Revenue Department.

Edw. J. E. Cashart.

