M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2595 Press ~~Mis.~~

159-160
Dated 8—10— N 1868

Not to be folded or roughly handled

2595

No. 159. Read the following Proceedings of the Board of Revenue, dated 16th September 1868, No. 6,609 :—

Read the following letter from the Acting Head Assistant Collector, to the Acting Collector of North Arcot, dated Ranipett, 24th June 1868, No. 218.

1. With reference to Mr. Robinson's letter,* No. 943, dated the 4th December 1867, I have the honor to state that I have been to Satghur, and have made an inquiry into the matter therein referred to. I now beg to submit the following report, but will first give a brief statement of all the particulars of the case from the beginning.

* Enclosures returned.

2. In 1864, a complaint was preferred by the Agent of Humayan Jah Bahadoor before the Sub-Magistrate of Gudiathem, against the Monigar, Munia Gownden, of Kondampalli, for taking away the fruit of certain Sita trees on the hill at Satghur, alleged by the agent to be a part of the late Nawab's property, purchased in 1862 by Humayan Jah. The Sub-Magistrate fined the Munsiff Rupees 5. He appealed on the grounds that the land in question was Government Porumboke land, and did not belong to the Bagayetdar (*i. e.*, Humayan Jah, who purchased the adjacent *Bagayet* and other lots).

3. The Tahsildar was referred to in order to measure the land and make a report touching the ownership of it, which he delayed doing until the 27th February 1867, when he reported that "the land whereon the *Sita* trees in question were situated (No. 71), and the adjacent No. 70, were Sirkar Porumboke land of the village of Kondampalli, and entered so in the Pymash accounts, but that No. 71 had been included within the boundaries of that portion of the Nawab's property called the 'Balakilla,' purchased by the Bagayetdar, and had been enjoyed by him since he purchased the land." Upon this the Head Assistant Magistrate confirmed the Sub-Magistrate's sentence in March 1867. After this the Monigar of Kondampalli presented a petition to the Collector on the 12th June 1867, complaining that the Bagayetdar's agent, on the strength of the confirmed decision of the Sub-Magistrate, prohibited the people of Kondampalli from their customary enjoyment of the Sita fruits on the Satghur hill, though the spot where they grew was really Government land, and the Bagayetdar had no right to it. Mr. Robinson referred the matter to the Head Assistant Collector, in order to have the *revenue* question investigated. This being sent to the talook for report, the Revenue Inspector measured the land, and made a report to the same effect as the Tahsildar had done before, but Mr. Robinson apparently not satisfied with this, has, in the letter under reply, referred the matter for personal inquiry by the Head Assistant Collector.

4. On proceeding to Satghur on the 27th ultimo, I found that there was no dispute about the Porumboke land No. 70, which is admitted to belong to Government, but the Bagayetdar's agent, one Meer Hider Hussain, asserts that No. 71 (from which the Sita fruits were taken) is portion of lot No. 6 of the Nawab's property sold in 1862 to Humayan Jah, and called the "Balakilla" or Satghur hill—(see the catalogue of sale herewith sent.)

5. The first thing I did was to examine the Pymash accounts for the village of Kondampalli, and there I found No. 71 entered as *Sirkar Porumboke land.* The extent of it is therein distinctly stated to be 670 Cawnies, and the southern bounds

alone are mentioned as extending from a mountain path called the "Bandakanava" on the east, to the "Peta Darwaza" or entrance of Satghur village on the west, and as being in length *three hundred and thirty-five* kols. There is only one breadth mentioned, namely, 200 kols, but no bounds are described for the west, north, and east sides of the number. But as the total area is given as "670 Cawnies," (which is that of a rectangle whose sides are *three hundred and thirty-five* and *two hundred* kols,) it is evident that the breadth must extend *in every part for two hundred kols*. I enclose a plan of the Balakilla hill. I had a measurement made before me of the space A. B., the southern bounds of No. 71, (from the Bandakanava to the Peta Darwaza,) but I found the distance to be *three hundred and fifteen kols* instead of 335 as in the Pymash accounts, and was reported to have been found by the Tahsildar and Revenue Inspector respectively when they measured it. The common report of the village people is that the boundary of the number on the western side coincides with the foot of the Balakilla hill on its western, or more properly speaking, north-western side, and that from the Peta Darwaza to a small rock called "Hanumanta Ravuni Gunda" on the shoulder of the low hill near C. is 200 kols. I had a measurement made of this when I found the distance between the two spots was 202 kols.

6. As from the Pymash accounts it would appear that the breadth of the No. 71 must be 200 kols *in every part*, I think that undoubtedly the foot of the hill from A. to C. is the *western* boundary of the number, as all west of that is the town of Satghur and land belonging to the village of Pernambatt (of which Satghur is a hamlet). This western boundary, however, forms somewhat of an acute angle with A. B., the hill coming to a point just above the Peta Darwaza. The southern bounds of the number A. B. is only a few yards from the foot of the hill and parallel to it. A line taken to a distance of 200 kols parallel to A. C. from B. to a point D. and coincide to some distance with the Bandakanava *must* be the *eastern* boundary, while C. D. would be the northern bound. As the number would not thus be a *rectangular* parallelogram, the calculation of the area at 670 Cawnies is not altogether exact. In any case it would be difficult to compute with exactitude the area of the number, as it entirely consists of low hills, the slopes of which commence a little north of the line A. B. which is on the level ground a few yards from the foot of the hill.

7. The low hills marked S. S., &c., which are claimed by the Bagayetdar, and where the villagers of Kondampalli are prevented from using the Sita fruits, are thus undoubtedly within the Sirkar Porumboke No. 71, and, therefore, could never have been rightfully held as part of the late Nawab's property. But by some mistake in the catalogue issued previous to the sale in 1862 of the different lots of the late Nawab's lands at Satghur, the bounds of lot No. 6, (called the Balakilla) are erroneously entered so as to include all the low hills S. S. &c., east of A. C. I say *erroneously*, as being totally irreconcilable with what, in reference to the southern boundary, and the extent of No. 71 as entered in the Pymash accounts, must be the proper bounds of that number. That these hills S. S. &c., are included within the bounds of lot No. 6 in the catalogue, is easily apparent from the fact that therein the *western* bounds are laid down as "lots Nos. 7 and 8" (respectively the Lungerkhana and Kamati Bud numbered 16 and 18 in my plan); "in other part the limits of the town of Satghur," (numbered 19 in the plan,) &c. If you look at the

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8th October 1868.

plan I send, you will see that these localities are just on the *western* side of the parts of the hill marked S. S., &c., and immediately at its foot. Buying the lot, therefore, according to these boundaries published in the sale catalogue, the Bagayetdar has certainly some reason for his claim. But the bounds have, no doubt, been *wrongly* described (unless the particulars in regard to No. 71, as contained in the Pymash accounts are to be ignored altogether). Moreover, the extent of lot No. 6 is merely entered in the catalogue as "about 4,000 Cawnies." It would certainly be difficult to estimate its extent with anything like exactness, as it consists almost entirely of hills and rocks. It would, therefore, appear that whosoever, prior to the sale of the Nawab's property, made out this catalogue, and laid down the bounds of the several lots, has, by mistake, or want of accurate information, included in a lot of the said property, Sirkar land which was never enjoyed or held by the Nawab, and that this is the origin of all the misunderstanding on the subject.

8. The bounds of this lot are very loosely described; for instance, it is said to be bounded on the south "by the bounds of the village of Gundelapalli (? a "mistake for Kondampalli,) in other part by punjah Porumboke land, (no number "or village is mentioned, but it must mean No. 71,) in part by the gate of the "Khooba bungalow." The "Khooba bungalow" does not now exist, and its former position is involved in great obscurity, the Bagayetdar's people saying it was near the Peta Darwaza of Satghur (there are no traces of it near this spot); the Monigar of Kondampalli and others say it was far up in the hills at a spot numbered 11. Here there are merely the ruins of an old Mundapam.

9. I called several aged inhabitants of Satghur to testify as to the former possession of the disputed number. They *all* state that the hill composing it formerly belonged to Government, and *not* to the Nawab, and that the people of Kondampalli, Satghur, &c., used customarily to enjoy in charity the fruits of the Sita trees growing thereon. The agent of Humayan Jah admits that he knows nothing about the possession of the land before Humayan Jah purchased it, and did not offer to produce any evidence that it belonged to the late Nawab.

10. I would recommend that a portion of the Balakilla be measured off, to the extent of 670 Cawnies, (the proper extent of Porumboke No. 71,) and that boundary marks be erected to denote clearly the bounds on the Satghur hills between the Government land of Kondampalli, and that which lately belonged to the Nawab of the Carnatic, and so put an end to all further disputes on the subject.

11. Irrespective of this, however, since it is clearly proved that the inhabitants of Satghur, Kondampalli, &c., had always enjoyed the privilege of using the Sita fruits on the portion of the Balakilla in dispute until the last three or four years when they have been prevented by the Bagayetdar's people, and since, in the certificate granted to the Receiver of the carnatic Property for the lot in question, it is provided that "such certificate in no way affects rights or interests which other parties than the Nawab may have in the said lands," I certainly think that the right of taking the Sita fruits, which these inhabitants have always enjoyed, cannot now be prohibited by the Bagayetdar (even though it be admitted that the number in dispute is his, and not Government Porumboke.) I, therefore, recommend that orders be at once issued that the ryots of the adjacent villages be no longer prevented from exercising the above privilege to which they are clearly entitled.

ENCLOSURE No. 1.
ABSTRACT.—Sketch of the Satghur hill.

ENCLOSURE No. 2.
ABSTRACT.—Certificate granted to the Receiver of Carnatic Property.

ENCLOSURE No. 3.
ABSTRACT.—Catalogue of sale.

ENCLOSURES Nos. 4 and 5.
ABSTRACT.—Vernacular documents.

No. 234.

Submitted to the Board of Revenue with five material enclosures,* including Mr. McCarthy's plan. It is conclusively established that the land in dispute is Government Porumboke, plot No. 71, as per survey accounts, and that the same was incorrectly included in lot No. 6, (*vide* sale catalogue,) sold to Humayan Jah Bahadoor. The rectification of such a mistake is clearly provided for in the certificate granted to the Receiver of the Carnatic Property, and by the fifth condition of sale, (*vide* appendix to catalogue). The Board are requested to move the Government to call upon Humayan Jah Bahadoor to submit his title-deeds for correction, and to issue an authoritative order for the demarcation of Porumboke No. 71, as suggested by Mr. McCarthy in paragraph 10.

* In original, to be returned.

CHITTOOR,
13*th July* 1868.

(Signed) G. VANSAGNEW,
Acting Collector.

To the Acting Secretary to the Board of Revenue.

Resolved that the foregoing letter be submitted to Government, with the Board's recommendation that the opinion of the Advocate General be obtained as to the measures which should be adopted for the recovery of the Government land which has been improperly included with that of the Nabob.

No. 160. ORDER THEREON, 8th October 1868, No. 2,595.

Miscellaneous.

1. The Government do not deem it necessary to make any endeavour to regain the land under reference. It appears from the correspondence on the subject, which is on record in the Government Office, that the question, whether this land should be included in lot No. 6, was raised before the sale, and that on the representations of the Receiver of Carnatic Property, it was deliberately included in the lot and sold.

2. Any rights which the villagers may have in the land in question are of course unaffected by this sale, and they are at full liberty to establish them by a suit in Court if denied by the purchaser.

(True Extract.)

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

To the Board of Revenue.

Exd. S. T. Augustin.

Govt. of {1868} Madras.

REVENUE.

To

THE BOARD OF REVENUE.

Dated October, 8th.

Recd. *Read.*

G. O., 8th October 1868, No. 2,595.

OCTOBER.

Nos. 159-160.

Certain land sold with the late Nabob's property in North Arcot.—Rights of the villagers in the land to be established by a suit in Court if denied by the purchasers.

Memo for orders

No 3018.

The Bd of Revenue recommend that the Advocate General be asked to advise how the Govt should proceed to recover certain Govt land incorrectly included in a Title deed granted to the Hon'ble Humayun Jah Bahadur as purchaser of certain property sold by the Carnatic Receiver, as having belonged to the Nabob of the Carnatic.

It seems however from the enclosures of the Govt order under date ~~6 Dec 1860~~ 22 Jan 62 No 685 that the matter was then brought to notice, and the Receiver's account of the boundaries of the property

Is this a case which ought to be referred to any one of those whose names are on the Govt Pleaders list?

4/1

the title deeds from it seems to me that the Govt. cannot dispute them. Thereby the rights of third parties are reserved. Probably if the villagers could establish in Court a prescriptive right to enjoy the fruits of the trees growing on the land in dispute, this right would be upheld against the holder of the Title Deed. Such a right however would be very difficult to establish, even if it were worth the trouble & expense of a civil suit.

I would decline to seek the opinion of the Law Officers in this matter. Prior to the sale, there was some talking by the Collector & a conversation between him & the Receiver, who seems to have been satisfied by what the Collector said, that the boundaries of No 6 lot were sufficiently well defined for him (Receiver) to proceed with the sale. I certainly should myself have presumed about the extent in value or by such acceptance of the verbal statement of the Collector made at the time of the sale, a barren rocky hillock but the Receiver thought otherwise. — The real value of the Killach, said to be revenue No 71, must be little or nothing — I could trace the sale of sold now with the boundaries fixed by the Collector — and the only persons who are entitled to benefit by what portion of the land in question are the local inhabitants of the village.

& Roudampilly, who appeal a pretended right to gather fuel & the wild "Lita" fruit. — with this right, if the villagers can prove it exists, the purchaser cannot interfere, and may, I think, be fairly enough referred to the Civil Courts for the substantiation of the right.

It would be unbecoming on the part of Govt. to endeavour now to undo by the boundaries of a lot duly & fairly sold & fairly bought, even if it were quite clear that the Receiver did sell No 6 within wrong boundaries, for that is only color of title for the purchaser. — But the case is not that. — I would therefore refuse to take steps to determine whether the area of No 6 may not now, in some way or other be reduced, so by so exciting the unfounded conclusion in it of the area of a worthless, barren piece of ground designated No 70

26 Feb 1878

I agree with Mr Phillips

A.J.A.

Revenue Department

No. 2595.

Proceedings of the Madras Govt.

Under date the 8 October 1868.

Read the following Pro=
=ceedings of the Board of Re=
=venue

Subscribing to Govt. letter from Coll. of North Arcot and recommending that the opinion of the Advocate General be obtained as to measures which should be adopted for recovery of Govt. lands which have been improperly included with that of the Nabob.

(Were enter 16th September 1868 No. 6609)

List from orders

The Govt. do not deem it necessary to make any endeavour to regain the land under reference. It appears from the correspondence on the subject which is on record in the Govt. Office that the question whether this land should be included in lot No. 6 was raised before the sale, and that on the representations of the Receiver of Carnatic pro=perty it was deliberately included

for

in the lot and sold.

2. Any rights which the Villagers may have in the land in question are of course un= =affected by this sale, and they are at full liberty to establish them by a suit in Court if ~~denied~~ denied by the purchaser.

P.W.D

14 Copies Letter & Pol. Rep. with 5 Circulars Despatch.

E.D. Thesiger

Revenue & Des Deputo
Pro of Grant for October

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Pro of the Madras Grant
Dy 8th October 1868

Pro 38-9
4/12/60
368-9
27-3-62

A·1597/160

159-160