M.R. G. 1—32,600—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 3129 Press ~~His.~~

240-241

Dated 15-12-1868

Not to be folded or roughly handled

129 Vol

Read again letter from SABAPUTHY MOODELLY and his sister, dated 29th April, and recorded in G. O., 16th May 1868, No. 1,381.

No. 240. Read also the following letter from the Acting Collector of the Madras District, to the Acting Secretary to Government, Revenue Department, Fort St. George; dated Sydapet, 2nd November 1868, No. 208:—

1. I have the honor to submit, herewith, the report called for in the Proceedings of Government, dated 16th May last, No. 1,381.

2. With regard to the *first* point, it appears from the record of the case that, previous to the resignation of the land in Fusly 1276, the petitioners were never out of enjoyment, or allowed any break in the payment of their Government dues.

3. *Second.*—The date of the Durkastdar's application was the 5th September 1866. The date of the acceptance, *i. e.*, of the order granting the Durkast, was 12th February 1867, and the date of the petitioners' remonstrance against the acceptance is 26th October 1866.

4. *Third.*—Moorugesy Moodaly, the petitioner, holds no puttah in his own name in the village; but he is the *undivided son* of a Mirassidar. Copies of detailed reports of the Sub-Collector on these points are enclosed.

No. 241. ORDER THEREON, 15th December 1868, No. 3,129.

Miscellaneous.

Ordered that the Memorial received with the first of the above papers be despatched to the Home Government, and that the Memorialist be informed of its despatch.

(True Extract.)

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

To the Collector of Madras.
" the Board of Revenue.

Exd. J. Tulloch.

Govt. of {1868} Madras.

REVENUE.

To

THE COLLECTOR OF MADRAS,

&c., &c., &c.

Dated December, 15th.

Read. Encl.

G. O., 15th December 1868, *No.* 3,129.

DECEMBER.

Nos. 240-241.

Sabapathy Moodelly's claim to certain Puttah lands.—Memorial to Home Government on this subject ordered to be forwarded.

or make known their intended cultivation
to the proper authorities until after they became
aware of the application made by the
Darkhastdar to oust whose claims they
then adopted both these measures.

Further it is asked whether "they allowed
no break in the payment of the Govt.
dues". This also is untrue inasmuch as
instead of paying these according to the
Kistbundi from Kowl, when they began
to cultivate, until the close of the Fasli,
they paid them in lump sums at the
end of Fasli 1276 and beginning of Fasli
1277. See the deposition of the Muncum
taken before me (herein enclosed).

3. The answers to the 2d question are,
that the date of the Darkhastdar's applica-
tion was the 5th Septr 1866, of its accepta-
ance 5th Septr 1866 (the same day),
and of Petitioners remonstrance 26th Octr 1866
or more than 7 weeks after.

4. Thirdly, it is enquired, "whether
Murugesa Mudeli (the Darkhastdar)
is a mirasdar of the village". His
father

3

father holds a patta for 15-2-2 Kanis bear-
-ing an assessment of Rs. 7-12-3. He is a
member of an undivided family. All the
rights therefore that accrue to the father
belong to the son, the former having not
a title of preferential right. The son
therefore must, in accordance with the
spirit of the Hindu Law and the immemorial
custom of this District, be considered a
mirasidar of the village.

5. I cannot refrain from mentioning
circumstances which this enquiry has brought
to light. It appears that the relinquishment
given by the Petitioners was a swindle,
and that it is the yearly practice of the mirasi-
-dars of that Village so to do. The Petitioners
merely wished to avoid payment of the
Govt dues for the Fasli, and had not
the remotest intention of losing their
right to the land. If a Darkhastdar
appeared before they could again cultivate
it with palpable profit, they would
pounce upon it with an objection, &
while cheating Govt out of the Kists which

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had intervened, would accept as an unfortunate necessity the payment of those which remained before cultivation was certain profit. Such is a bare statement of what occurred in this case, and it seems self evident that as the Petitioners had tendered a fine or relinquishment which the agents of Govt had accepted, the right of occupancy remained no longer in Petitioners, but vested in the Govt. In accordance with that view the Ag Dist Collr made over the right of occupancy to the Darkhastdar, who then assumed all rights which Petrs had previously abandoned. For Govt to direct the adoption of any other course would be to ensure the total subversion of its whole system of Revenue, and would possibly entail the annual relinquishment of almost every acre in the District.

A strong point is made in the Petition of clause 1 section 15 of the Boards Darkhast Rules as giving Petitioners an undeniable right to the land. It runs thus. Possession shall be preferentially granted. "To a ryot whose father or near relative was in possession of the land within one year." This rule is evidently meant to cover the case of a deceased Cultivator and to secure a just priority of claim to his relatives. At the very most it gives priority to relations only & not to the very persons who have themselves been in possession & relinquished it within the year. It clearly has no bearing on the present case.

The land in question having been granted by the late Ag Dist Collr to the Darkhastdar on good and sufficient grounds, and the allegations in the Petition being false, exaggerated, and irrelevant, there seems to be no doubt that that officer's action should be upheld, and it appears to me that Petitioners who still cultivate and continue their usurpation in defiance

defiance of all orders from the
Revenue authorities should be
dealt with under the provisions
of the Penal Code relating to
Criminal Trespass.

Inst. 88

Signed C. S. Cole
Ag Sub Collr
24-6-68

True copy

Mitchell
Ag Collector.

Mr. Smith
Thanks.
Wdy

Escape.

No. 275

Madras District
Sub Collectors Office
Chingleput 16th October 1868.

From

C. A. Crole Esqre
Agt Sub Collector
Madras District

To

G. Thornhill Esqre
Agt Collector
Madras District

Sir,

× Enclosure returned

With reference to your No. 647 of the 12th Instant, and in continuation of my letter of the 24th June 1868 No. 162, in which I confined myself to answering the 3 questions contained in the Proceedings of Government and making certain remarks thereon, I have now the honor to supply the additional information called for.

I As far as I can gather from the record of the case, petitioners were not out of enjoyment of the land and did not allow any break in the payment of the Government dues until Fasli 1276

II The first notice to the Merasidars was issued on the 30th September 1866, but it having been found that this had not been formally published in the prescribed manner, a second notice was issued on the 10th December 1866.

III The order of the Adcleng[illegible]

one

240-241

2
Rev: 3493/68
15th Dec 1868 & 240 to 241

Rev. letter from the Agt Collr
Chingleput dated 16th Nov 1868
No. 290.

15 Dec 1868
Entd
3129

Sub Collector making over the
land to the Durkhastdars
dated 12th February 1867.

I have the honor to be
Sir
Your Most Obedient Servant
Signed / b.L. Crole
Ag Sub Collector

/ True Copy /
Mumford
Ag Collector

Madras District

No. 275. Sub Collector's Office

Chingleput 16th October 1868.

From C. S. Crole Esqre

Ag Sub Collector, Madras District

To G. Thornhill Esqre

Ag Collector, Madras District

Sir,

With reference to your No. 547* of the 12th Instant, and in continuation of my letter of the 24th June 1868, No. 162, in which I confined myself to answering the 3 questions contained in the Proceedings of Government and making certain remarks thereon, I have now the honor to supply the additional information called for.

I As far as I can gather from the record of the case, petitioners were not out of enjoyment of the land and did not allow any break in the payment of the Government dues until Fasli 1276.

*Enclosure returned

Rec: 3/Nov: 3493/68.

Lr. C. S. Crole Esqre Sub Coll: of Madras 16/10/68. No. 275.

II The first notice to the Marasidars was issued on the 30th September 1866, but it having been found that this had not been formally published in the prescribed manner, a second notice was issued on the 10th December 1866.

III The order of the Acting Sub Collector making over the land to the Durkhastdar is dated 12th Febriary 1867.

/Signed/ C.S. Crole
Actg Sub Collector

/True Copy/

/Signed/ G. Thornhill
Actg Collector.

/Sd/

Madras Dist.t
Sub Collectors Office
Chingleput 24th June 1868

No 162

From

C. S. Crole Esquire
Acting Sub Collector
Madras District

To

G. Thornhill Esquire
Ag Collector of the Madras Dist.t

Sir

I have the honor to return Govt. Petition No 964 and to inform you that this report is the result of a careful personal enquiry into the case. The Govt. has referred it for the supply of answers to three questions.

2 The first is "Whether Petitioners were never out of enjoyment of the lands claimed". The very fact of their having formally relinquished the land on the 10th of August 1866 and not cultivated it again until Novr. of the same year proves that they were out of possession for that period. It is observed that when they did enter into

into possession in November by ploughing up the land it was a wrongful possession, as they did not request the cancellation of their relinquishment or make known their intended cultivation to the proper authorities until after they became aware of the application made by the Darkhastdar against whose claims they then adopted both those measures. Further it is asked whether "they allowed no breaks in the payment of the Govt dues." This also is untrue inasmuch as instead of paying these according to the Kistbundi from Nov.r when they began to cultivate, until the close of the Fasli they payed them in lump sums at the end of Fasli 1276 and beginning of Fasli 1277- See the declaration of the Ryotwar taken before me (herein enclosed).

3 The answers to the 2d question are, that the date of the Darkhastdar's application was the 5th Septr 1866; of its acceptance 6th Septr 1866 (the same day) and of Petitioners remonstrances 26 Octr 1866 or more than 7 weeks after.

4. Thirdly it is enquired "whether Muniyesa Madeli (the Darkhastdar) is a monigadar of the Village." His father holds a patta for 16-2-2 Kanis bearing an assessment of Rs 4-12-3. He is a member of an undivided family. All the rights therefore that accrue to the father belong to the son, the former having not a title of preferential right. The son therefore must in accordance with the spirit of the Hindu Law and the immemorial custom of this District be considered a Monigadar of the village.

5. I cannot refrain from mentioning a circumstance which this enquiry has brought to light. It appears that the relinquishments given by the Petitioners was a swindle, and that it is the yearly practice of the Monigadars of that Village so to do. The Petitioners merely wished to avoid payment of the Govt dues for the Fasli, and had not the remotest intention of losing their rights to the land. If a Darkhastdar appeared before they could again cultivate it with profitable profit, they would pronounce upon it with an objection, and while cheating

Govt

Govt out of the Rents which had in-
tervened, would accept as an importunate
necessity the payment of those which re-
mained before cultivation was certain
profit. Such is a bare statement of what
occurred in this case, and it seems self-
evident that as the Petitioners had tender-
ed a formal relinquishment which
the agents of Govt had accepted, the
right of occupancy remained no longer
in Petitioners, but vested in the Govt.
In accordance with that view the Ag.
Sub Collector made over the right of
occupancy to the Darkhastdar, who then
assumed all those rights which Petrs had
previously abandoned. For Govt to direct
the adoption of any other course would
be to ensure the total subversion of its
whole system of Revenue, and would
possibly entail the annual relin-
quishment of almost every acre in
the District.

6 A strong point is made in
the Petition of Clause I Section 15 of the
Board's Darkhast Rules as giving
Petitioners

Petitioners an indeniable right to the
land. It runs thus- Possession shall
be preferentially granted "To a ryot
whose father or near relative was in
possession of the lands within one
year." This rule is evidently meant to
cover the case of a deceased Pattadar
and to secure a just priority of claim
to his relatives. At the very most
it gives priority to relations only and
not to the very persons who have them-
selves been in possession and relin-
quished it within the year. It clearly
has no bearing on the present case

7 The land in question having
been granted by the late Ag Sub
Collector to the Darkhastdar on
good and sufficient grounds, and the
allegations in the Petition being false,
exaggerated, and irrelevant, there seems
to be no doubt that that officer's
action should be upheld, and it
appears to me that Petitioners who
still cultivate and continue their
usurpation

in defiance of all orders from the Revenue authorities should be dealt with under the provisions of the Penal Code relating to Communal Disturbances.

I have &c

(Signed) C. S. Crole

Ag Sub Collector

24-6-68

(True copy)

(Signed) G. Shorncliffe

Ag Collector.

Rejected by Lord Stanley
Nov. 5th 1842

Enclosure in Rl. Q.

15th December 1842

13

There was a formal relinquishment of the land by memorialists; - there was consequent dereliction; - their resumption of occupancy, without formal permission, was an irregularity; for the land by their relinquishment, was at the disposal of the Govt. who were bound to make a regrant of the cultivation, under the rules. - a tender for the land had been put in prior to the memorialists declared resumption and of that tender, as was the case, was accepted subsequent to such resumption, I consider that the memorialists had no vested rights, legal or disposal of the land as Govt. had acquired). under that right, a Patta has, it seems, been issued to the person from whom the tender proceeded and it will rest with him to decide the memorialists for damages resulting from their illegal occupation. I do not see how the Patta can be cancelled. I should think from the Memorial & the subjoined Mr. Taylor's report with an intimation that the Govt. have no recommendation to make in favour of memorialists

14th Dec. No. 1842

Pro. 16 May 1868 Nos 409-410

Reported to England
No 15 Dec 5 No 57 of 1868. Mis

Revenue 1868 Dept.
No. 3193.

From,

The Actg Collector of
Madras Distt.

To,

The Actg Secretary to
Government,
Revenue Dept.

Dated 21st
Recd 6th } November 1868.

No 208.
(3 Enclos)
Submitting his report
called for by Govt. in
certain Burkast case
of Moorugada Moodali.

Last 3129 - 21 Dec 68

240

Certified Nos 208 - Pol. C: 3 Nov 68 R10

Revenue Department

No. 3129.

Proceedings of the Madras Government

Under date the 15th December 1868.—

Read again letter from Sabapathy Moodaly and his sister dated 29th April and received in Fy. C. 16th May 1868 No. 1881.

Read also the following letter from the Collector of Madras.—

Submitting his report called for by Govt. in certain Durkast. cases of Moorcoogan and Mudali.— } (Here enter 2nd Novr. 1868 No. 208.)

Ordered that the Memorial received with the first of the above papers be despatched to the Home Government, and that the Memorialist be informed of its despatch.

FB.

1 Fd. Sd. Collr. of Madras 18 Decr.
14. Rd. Board of Revs.

HF 30/47 03

Shorted to England
5th Dec. No. 57. of 1868 Mis.

Revenue 1868 Despatch

No. 3129

Proceedings of the
Madras Government

Dated 15th Dec. 1868.