

MADRAS RECORD OFFICE.

Government of Madras.

Revenue . DEPARTMENT.

G.O. No.	2465	Press
		Mis-
<u>471-72</u>		
Dated	31 st August	1869 .

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
31st August 1869.

No. 471. Read the following Proceedings of the Board of Revenue, dated 7th August 1869, No. 5,809 :—

Read the following letter from the Officiating Collector of the Kistna District, to the Acting Secretary to the Board of Revenue, dated Masulipatam, 23rd July 1869, No. 221.

THE Civil Court of Guntoor called for an account of mesne profits of the zemindary of Vissannapeta, referred to in the concluding part of the Proceedings of the Court, dated 30th September 1868. The collection accounts, etc., have been accordingly sent for from the Sub-Magistrate of Vissannapeta; but the Government having subsequently restored the estate to K. Venkatanarayanappah agreeably to their order, No. 1,101, dated 23rd April last, I wrote to the Civil Judge to request him to inform me whether the account of the mesne profits was still required by the Court. Copy of the Judge's reply is enclosed, and I have the honour to request the Board's orders on the subject. Kavali Venkatanarayanappah must have consented to waive his claim to mesne profits before the Government order was passed, restoring the estate to him. I request therefore that the Board will be pleased to take steps to put in the compromise alluded to in the Judge's letter herewith enclosed.

ENCLOSURE No. 1.

From the Civil Judge of Guntoor, to the Officiating Collector of the Kistna District, dated 16th July 1869, No. 174.

I HAVE the honour to acknowledge the receipt of your letter of the 30th ultimo. As far as I can judge, (in answer to your letter,) unless a compromise between both parties to the decree of the Privy Council is put in, under which Kavali Venkatanarayanappah can be shown to have consented to waive his claim to mesne profits, or unless upon any formal motion on the part of the Government Pleader, the execution is stayed for due cause shown, I am unable to make any alteration in the proceeding of the Court, (in lieu of process,) with reference to a compliance with which my letter of the 30th January was written:

SUBMITTED for the orders of Government.

No. 472. ORDER THEREON, 31st August 1869, No. 2,465.

Miscellaneous.

ORDERED that the foregoing Proceedings, together with copy of the G. O., under date 23rd April 1869, No. 1,101, and of the decree of the Privy Council, be forwarded to the Government Pleader, with the request that he will advise Government as to the proper steps to be taken in the matter, at his earliest convenience.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secretary to Government.

To the Government Pleader
,, the Board of Revenue.

Exd. F. R. Bantleman.

No. 2708

From B. of Rev.

Dated 7th August

1869.

FOR ORDERS.

As I declined to become a party to the pro: of Gov: dated the 23rd April last which are counter to the views I had expressed in a minute dated the 16th Decr-1868, I feel considerable delicacy in now offering an opinion as to what may have been the intention of the majority of the Gov: in regard to the removal of Mr. Keshanapella Wale to Kavali Venkatarainappa. It occurs to me, however, that it cannot have been in contemplation by the Gov: ⁽¹⁾ to force their opinion of redempting ⁽²⁾ to place K. Venkatarainappa in possession of the Zemin-dary, which the Council had failed to understand was at the date of their judgment in the possession of the Gov: and ⁽³⁾ not in that of K. Venkatarainappa as they have erroneously assumed, and ⁽³⁾ further allow this person liberty to demand a refund of the collections made by the Collector of Maruthapalam whilst he was in possession, viz Rs without using the amount as a set off against such mesne profits as K. Venkatarainappa realized

Dated 1869

REVENUE.

To

THE GOVERNMENT SECRETARY.

G. O. Secy. to Govt.

Dated August, 1869.

Recd.

and

G. O. Secy. to Govt. No. 2435.

From Mr. Govt. Secy. to Govt.

1869.

No. 471-172.

Ministerial order in relation to the removal of Mr. Keshanapella Wale to Kavali Venkatarainappa.

realised when the State was in his hands
viz: N^o. 125,773 - 13 - from 21 July 1855 to the
28 July 1856.

The first ledge of frustration both on himself by
an order of the Court to correct the error of the
Surveyor General to be shown admitted; that is,
he ordered the Collector to deliver one possession
of the State to H. V. — a. There has
been, however, no opportunity for that liberal
& substantial re-arrangement of the Government
which the Govt. have had in their mind —
and therefore there may still be time to
saddle the intended act with a proviso that
H. V. — a. be called on to supply to
any claim he may consider himself
to have against the Government. But,
judging from his antecedents & the strength
of his present position, it is scarcely
probable he will agree to such a
proposal. — It may therefore perhaps
be best to place this whole matter before
the Govt. Pleader and request him at
an early date to favor Govt. with an opinion
as to the steps which ought now to be
taken. I offer these suggestions with
diffidence lest it be opposed to the
measures of the majority of the Govt.
have had in view —

30 August 1856

W. V.

FOR ORDERS.

I agree to the suggestion
of Mr Phillips. All
I intended or advised
to do was to leave
the Zemindar in the
undisturbed possession
of the estate a long
period to put an
end to any further
litigation. I did
not contemplate the
refund of any
money to the zemindar.

Revenue Department

Memo. for orders on the Vissanapett
Zemindary case. -
(102708.)

1. This very involved
case will be fresh in
the recollection of the
Government and all the
circumstances connected
with it are sketched in
Mr Sewell's Memo. filed
herewith. -

2. In their order dated
23rd April 1869, No. 1101,
the Government decided
to leave B. Venkata -
Narasimhaiah "in undistur-
bed possession of the
"Vissanapett" estate, there-
by impliedly foregoing
the right to exercise the
equity

equity of redemption
which had been express-
ly reserved to the
Crown under the decree
of the Privy Council.

3. The Collector (vide
Proceedings of the Board
dated 7th August 1869, —
N^o 5,809) now reports
that the Civil Judge
(Mr. Swinton) has called
upon him for an account
of the moneys profits of
the Zemindary which it
was under the manage-
ment of Govt. with the
apparent intention of awarding
the same to Venkata Narra-
mappa, in execution of
the decree of the Privy
Council.

Council.

4. On referring to the
decree of the Privy Council,
I find nothing
said as to moneys
profits. The decree
merely awards the
estate to Venkata
Narainappa as
security for the
sums which were
advanced by his
father to the mi-
nor in possession
and it certainly
does not follow
that

that the profits
previously realised
from it by Govt
are claimable. On
the other hand, if
the Govt had seen
fit to exercise the
equity of redemption,
they would have been
entitled to set-off
against the mortgage
debt the mesne profits
realised by Venkata
Naramaiah during his
tenure of the estate.

I

5. I do not imagine
that the Government
in their Order dated
23rd April 1869 had the
slightest intention of
assigning mesne profits
to Venkata Naramaiah
besides resigning the
estate to him, but it
would perhaps have
been as well to have
taken a bond from
him in which he should
have abandoned any
further claim upon
Government in con-
sideration of obtaining
immediate possession
of the estate. But

b. But it appears
possible that Mr Swinton
has misapprehended the
purport of the Privy
Council decree in bring-
ing mesne profits into
the question. The Col-
lector might be instructed
to file a petition showing
this, and, if necessary,
the High Court might
be appealed to. It is
clearly too late for a com-
promise. Neucatanah
reina pah has the estate,
and perhaps may not be
~~and being in possession~~
disposed
to ~~be instructed~~ to show
any return to Government
for the liberality which
they have extended to him.

W.

W. H. Bell

So far as I understand the
wishes of the majority of the
Court at the time all they intended
to do when the order of April
1869 was passed was to read
their intention of not exer-
cising their right of suing
for the equity of redemption.
They did not intend their
order to be any compromise
of the Privy Council Decree
which was to be carried out
both as to costs and mesne
profits (if included in it) inde-
pendently.

It will perhaps be well to
take the Joint Pleaders advice
in the Board's Proceedings as
I don't think the decree carries
mesne profits

R. W.

Handwritten notes in the top left corner, possibly a date or reference.

Handwritten notes in the bottom left corner, possibly a date or reference.

No. 2165 Recd Dept

Proceedings of the Board of Government
Under date the 31st August 1869

(H.C. 7th August 1869, No. 5809)

Let from rules
THD

Ordered that the foregoing
Proceedings, together with
copy of the L. Under
date 23rd Aug/69 No 1101 and
of the decree of the Privy
Council be forwarded
to the said Pleader with
the request that he will
advise forth as to the proper
step to be taken in the
matter, at his earliest
convenience

In Copy to the said Pleader with C No 1101 &
of the decree of the Privy Council
In SC Letter B² of the said SC No 2104
21st Aug 1869

THD
21st Aug 1869