

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT

GO. No.	2597	Press M
<u>86-87</u>		
Dated	4 September	1867.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
4th September 1869.*

No. 86. Read the following Proceedings of the Board of Revenue, dated 13th August 1869, No. 6,020:—

Read the following letter from the Acting Collector of Coimbatore, to the Acting Secretary to the Board of Revenue, dated 31st May 1869, No. 110.

I HAVE the honour to request the instructions of the Board on the following question raised by the Head-Assistant-Collector.

2. It has been the practice in this district to punish criminally persons encroaching on Government land, as it was considered that in so doing they were

* Copy herewith sent.

trespassing. By a late ruling* of the High Court, such convictions are declared to be illegal, and, in consequence, the Head-Assistant Magistrate reversed the decision of the Talook Magistrate of Pulladam, punishing a man for encroaching upon the village porumboke.

3. I have the honour to forward, in original, a letter from the Head-Assistant-Collector, enclosing a copy of his appeal decision and a letter from the Tahsildar of Pulladam, applying for instructions for his guidance in several similar cases he had under trial. The Board will perceive that, in the case under notice, the owner of a garden encroached upon some river porumboke (Vellavary வெளவாரி porumboke) adjacent to his garden. As argued by the Tahsildar, it appears to me that Government are custodians for the villagers of all village porumboke lands, and that trespass on such lands is punishable under the Indian Penal Code. In the case cited by the High Court, persons had cultivated Government land without permission; but it appears to me that the ruling referred to cases where persons had cultivated Government waste without having taken the preliminary course of making a durkhast. In such cases the entry would not have been with any of the intents specified in Section 441, Indian Penal Code. It does not appear that the decision referred to cases where permission to cultivate was refused prior to entry, or where the lands are village porumboke.

4. The question raised is of such general importance that a legal opinion should, I think, be obtained as to the power of Government to prevent encroachments on waste and porumboke land without having recourse to Civil Courts.

5. There are two distinct questions on which an opinion appears to me to be necessary. The first is the general question of the right of individuals to cultivate Government waste without permission; the other, the course to be pursued when village porumboke lands are encroached upon. In many cases, the cultivation of Government waste, without previously durkhasting for it, would be unobjectionable in itself; but if it became the rule would give rise to great abuse, and would render the Durkhast Rule of very little practical use.

6. I will now state the question on which I think legal opinion should be obtained:—

1.—A enters without permission upon Government waste land adjacent to B's puttah lands; B objects and durkhasts for land he has a preferential right, being the neighbouring landholder. A is informed that he has no right to the land, and that he must vacate in favour of B who has a right to obtain the land for cultivation. A refuses to vacate. Has A committed a trespass as defined in Section 441, Indian Penal Code?

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II.—A. enters without permission upon Government waste land unassessed, and allotted, at the time of survey, as village burial ground. A. receives notice from the Revenue authorities to vacate, and refuses to give up the land. Has A. committed a trespass as defined in Section 441, Indian Penal Code?

7. If it is held that the acts specified in the preceding paragraph amount to a trespass, the rights of Government and the villagers can be upheld without having recourse to Civil Courts: but if the contrary is the case, I would beg to support my Head-Assistant's recommendation that the settlement officer should be allowed to impose an enhanced rate of assessment on such lands at the Jummahbundy.

Enclosure No. 1.
From the Acting Head-Assistant-Magistrate to the Acting Magistrate of Coimbatore, dated 28th April 1869, No. 44.

I have the honour to forward, for your perusal, a copy of my decision in Appeal Case No. 19 of 1869, and an original letter from the Sub-Magistrate of Palladam, dated 26th May, No. 13, requesting instructions as to the proper course to be adopted for the preservation of the rights of Government in cases of encroachment on Government land.

2. You will observe that I reversed the decision of the Sub-Magistrate, on the strength of the Proceedings of the High Court, dated 4th March 1869, No. 440; for, although the proceedings were passed with reference to a particular case only, the reason assigned for reversing the decision of the Sub-Magistrate of Palladam appears to me to be generally applicable to all cases of encroachment on Government land, whether poramboke or circular.

3. If my view of the case is correct, it follows that a ryot encroaching on Government land can only legally be ousted by a Civil Court.

4. The desired object might more speedily be obtained by permitting the settling officer at Jummahbundy to charge an enhanced rate on lands cultivated without permission, say ten times the assessment fixed on the same in the case of poramboke, or similar land in the vicinity.

5. Thus I have no doubt would deter ryots from encroaching, and would save the Government the expense and delay attending the filing of a large number of suits in the Civil Court.

6. If you concur in my views, I trust that you will obtain an authoritative ruling as to the proper course to be pursued for the preservation of the rights of Government.

Enclosure No. 2.—Copy of the Sub-Magistrate's decision in Appeal Case, No. 19 of 1869, dated 28th April 1869.

Enclosure No. 3.—Copy of the Magistrate's letter, dated 26th May 1869.

Enclosure No. 4.—Proceedings of the High Court, dated 4th March 1869.

By this letter the Collector of Coimbatore requests that a legal opinion may be taken as to how encroachment on Government waste or poramboke land may be prevented or prevented by law.

2. He submits (in paragraph 7) two supposed cases of such encroachment, the first referring to the appropriation without permission of land open to durbast, and the second to unauthorized occupation of poramboke or land reserved specially for burial ground or other such purposes.

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3. With regard to both classes of cases, the Board are of opinion that the only way in which the difficulty can be met is by imposing a prohibitory assessment on the land.

4. The Board resolve to submit the Collector's letter to Government in order that, if thought desirable, a legal opinion may be obtained on the questions raised by him. They observe, however, that the right to impose a prohibitory assessment in such cases is disputed and defended in a suit now pending before the Principal-Sudder-Ameen's Court of Rajahmundry. A copy of Board's Proceedings, dated 10th December 1868, No. 8,697A, will be submitted for the information of Government.

No. 87. ORDER THEREON, 4th September 1869, No. 2,507.

Land Revenue.

THE Government concur in the views of the Board of Revenue, as expressed in paragraph 3 of their

Proceedings, and authorise the adoption of the course proposed in all cases of the nature under consideration.

2. The sanction of Government should have been obtained for the defence of the suit under reference in paragraph 4 of the Board's Proceedings, as an important principle was involved in the case. If the decision of the suit in the Principal-Sudder-Ameen's Court should be adverse to Government, an appeal should be submitted to the Civil Court, and thereafter a special appeal to the High Court, if necessary.

(True Extract.)

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

To the Board of Revenue.

Ed. F. R. Bantleman.

Recd. 23rd Sept 1869 No. 7211
Communicated to the
Collector
2nd Oct 1869
which will be forwarded
for the information of
the Board.

Read the fol

Submitting with
the letter from Colly
a bare request
for legal opinion may
be made as to how
documents should
be furnished and
by what means.

Chas. 134 Knight
1869 20/10/69

Commanicate
to the A. G. Long & Gladden
who is required to sub-
mit an opinion through
the Board of Trustees
in favor of or with-
out. Letter of May 18
No. 110. The sanction of
Board should have been
obtained to the defunct

with the Bureau of
Patent and Trademark
Office, Washington, D.C.

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[illegible][illegible]

Figure 1. The effect of the concentration of the polymer on the gelation time of the epoxy resin.

the said defendant
the Board, are of
important principles
and involved in the
case -

[illegible]

16 Feb 1908

If the decision of the suit
in the Probate Court
can't showed be adverse
to you an appeal should
be submitted to the Civil Court
and, ~~thereafter~~ ^{and} special appeal
to the High Court, if necessary.

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[The page contains faint, illegible handwriting.]

Figure 1. The effect of the concentration of the inhibitor on the rate of polymerization of α -methylstyrene in the presence of SnCl_4 at 25°C .

235-7N

26/9/92

19-8-99

22-1-02
11-5-16

Mr. (1869) Sept

Remedy of Feb

18-2807

Sept 14, 1869

86-871

Mr. (1869) Sept
Remedy of Feb
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Sept 14, 1869