M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2831 Press ~~Mis.~~

273-274

Dated 23 P. Febr ~~19~~ 1869

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 23rd October 1869.

No. 273. Read the following Proceedings of the Board of Revenue, dated 5th October 1869 :—

Read the following letter from the Acting Collector of Ganjam, to the Acting Secretary to the Board of Revenue, dated Chetterpore, 17th September 1869, No. 928.

I HAVE the honour to forward copy of a letter from the Civil Judge of Berhampore, and to request that I may be favoured with the instructions of the Board of Revenue as to whether the document therein referred to may be transmitted to the Court as requested.

SUBMITTED to Government with the Board's recommendation that permission be accorded for the production, before the Court, of the Proceedings referred to, as well as the remainder of the correspondence bearing on the case in which Government Orders are quoted, should the production of such papers be desired by the Court.

No. 274. ORDER THEREON, 23rd October 1869, No. 2,831.

Miscellaneous.

ORDERED accordingly.

(True Extract.)

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

To the Board of Revenue.

Exd. F. R. Bantleman.

REVENUE DEPARTMENT.

No. 3113

~~From~~ Prov. Bd of Revenue

Dated 5th October 1869.

FOR ORDERS.

Here is no objection that I can see, to the Petitioner's request, but I submit information, if the L.O to which he belongs is still in actual Service, upon the Militia-Allowance was withheld from the Zemindar & the local authorities, although duly applied for by the Petitioner here, doubtless from suppressed bad reason was apparent - The man in Person & from the Zemindar does not seem such worthless a bad case against the claimants who are now coming forward

WDR

A/A.

P.D.

Memo: for Orders on A. 3413.

Proceedings of the Board of Revenue dated 5th October 1869 are now immediately before Govt. In them the Board forward with their recommendation in the affirmative, but without entering on particulars) a letter from the Civil Judge of Berhampore to the Ag. Collector of Ganjam in which the latter is requested to forward for the perusal of the Court certain Proceedings of the Govt. and of the Board under Section 138 of the Civil Procedure Code.

The

2 The Section in question provides that "Any Civil "Court may send for from any "other public office or Court "any official papers not "being documents relating "to affairs of State, the pro- "duction of which would "be contrary to good policy".

3 Whether the pro- duction of the documents referred to by the Court would be contrary to good policy is therefore the question now before the Govt.

4 In any case it appears that their produc- tion before the Court would make known an apparent variance between two orders of Government. It also seems as if the course adopted by the Govt of ten years back, as shewn in one order was not

not strictly in accordance with prescribed regulations. The following is a brief statement of the case.

5 Clause 3rd Rule XIII of the rules for the guidance of the Governor's Agent in Ganjam (vide p. 566 of the Board's Circular orders from 1820 to 1830) which is not altered by the Revised Rules framed by Govt in their Proceedings of 24th December 1868 prescribes as follows:

"On the death of any "proprietor, the Agent shall "personally investigate all "claims to the succession "to Hill Zemindaries and "shall through the Board "of Revenue submit the "result of his enquiry

for

"for the riders of Sort, who
"shall exercise their inherent
"right to select as successor
"the one most acceptable
"to the people &c. But
"this shall not affect the
"succession to Estates held
"under the Summud-e-
"mid Kent-istemrar
6. The whole tenor
of a Summud is to place
the regulation of the suc-
cession to a permanently
settled estate under the
Courts of Judicature-
in fact to raise a
Zemindary to the level
of private property.
But the Collector (in
order to realise the pesheush
from a permanently settled
Estate) is sometimes compelled
to resort to a sort of
quasi-official recognition

of a successor, and it
seems not improbable
that this practice is
at the root of the
present difficulty
Serghur or
Saraghadam a per-
manently settled
Estate in the district
of Gayaee, but the
Summud, it appears,
although issued from
the Residency has
for some reason never
been given to the Zemin-
dar. But the mere
fact that a Summud
is issued, has not
been

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been given to a Zemindar, does not seem in other cases to have affected the validity of his tenure under it: vide paras 384 of the Ganjam Collector's letter, dated 9th March 1869 embodied in Pro. of Govt dated 23rd June 1869 No 1823.

8. Nevertheless, on reference to "Proceedings of Govt from 30th April to 3rd May 1859", it will be observed that "in the death of the Zemindar of Seergherr, the Govt emphatically treated his Estate as if it were not held under a Sunnud."

They told the Collector that he should have submitted the question of succession for their orders through the Board under clause 3, Rule XIII of the regulations quoted above.

9. It is foreign to the present issue to enter into the merits of the then claimants. It is sufficient to state that the Order, dated 2nd July 1859, No 880, the Government, while adhering to a former order in which they had nominated the successor to the Zemindary, nevertheless laid down that the other claimants "would be free to prefer their claims in the Courts of Adawlut." This is the very order which the Civil Court has asked for

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for. It (besides to a certain extent contravening the former order) was in itself a contradiction in terms, for it treated the Zemindary first as if it were not, and then as if it were held under a Sunnud.

10. This arbitrary mode of regulating the succession to Hill Zemindaries appears to have always been usual. Chemudu in Vizagapatam, which is also held under a Sunnud affords an instance. Vide Proceedings of Government, dated 5th February 1869. No. 319.

11. To reiterate, the question now before Government is, whether the production of the G. O. alluded

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alluded to in para 9 of this Memo: can be denied to the Civil Court on the score of policy. It is submitted that if it be established as it seems to be - that the Civil Courts are vested with the power of deciding on the succession to the Zemindaree estate, no evil can be result by publishing an order which although somewhat ambiguous in some what similar terms, stated as much

The claimants to the estate in dispute before their case before the Court have only adopted the step which the order in question suggested to them

Sd/ [illegible]

Revenue 1869 Oct.r
No. 3413.

Proceedings of the
Board of Revenue
Dated 6th October 1869
Despatched - 5th Octr 69
Received - 6th

Submitting letter from
Collr of Ganjam requesting
sanction for production
of certain documents
before Berhampore
Civil Court in Suit
Ordered accordingly

23rd Octr 1869

Recd 16th Octr 69 R23

Recd 23rd Octr 69 R23