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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT

G.O.No. 757 Press

501-502

Dated 18th March 1869

Not to be folded or roughly handled.

Proceedings of the Madras Government, Revenue Department,
18th March 1869.

No. 501. Read the following Proceedings of the Madras Government in the Public Works Department :—

Passing orders on papers relative to the settlement of the claims of certain Milkmen of Trichinopoly, for the value of their lands taken up in connection with the improvement of the Cantonment.

(Here enter 13th March 1869, No. 818.)

No. 502. ORDER THEREON, 18th March 1869, No. 757.

Miscellaneous.

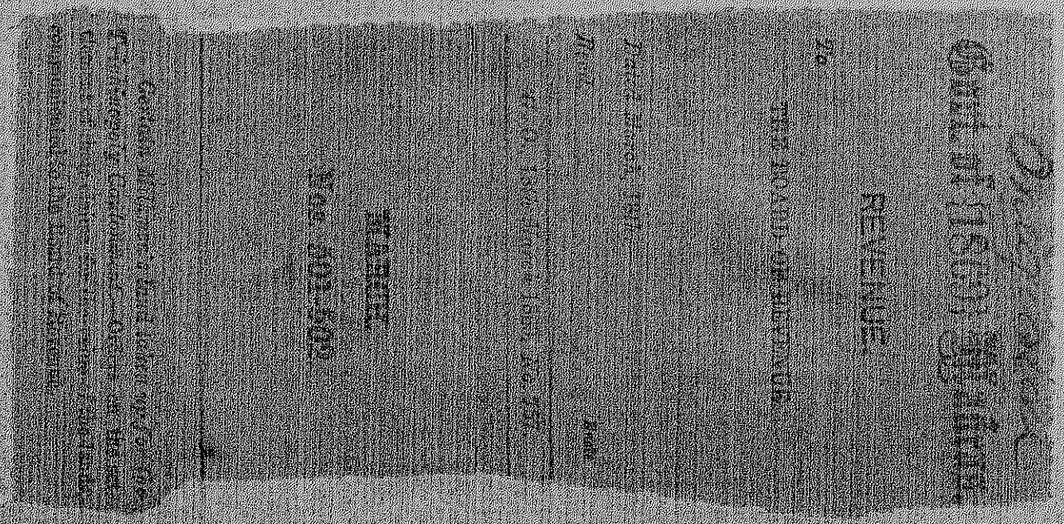
Communicated to the Board of Revenue.

(True Extract.)

(Signed) H. W. WELLESLEY,
Acting Under Secretary to Government.

To the Board of Revenue, with Proceedings, Public Works Department, No. 818.

Ed. G. A. Turton.



Proceedings of the Madras Government, Public Works Department, 13th March 1869.

Read the following letters :—

No. 363. From the Superintending Engineer, 6th Division, to the Secretary to Government, Public Works Department, dated Camp at Toriore, 30th January 1869, No. 1,120.

With reference to G. O. No. 3,475, dated 6th November 1868, I have the honor to inform you that after a careful perusal of the written statement which I was directed to file in answer to the suit instituted by certain milkmen against Colonel Greenaway and Mr. Cahill, I found there were certain statements in the reply to which I could not certify, and they are—

Documents marked A, B, C, D, E, F, G, which were forwarded with letter No. 698, dated 30th September 1868.
Z and Y, original Petitions from Mootial Conan, dated 26th April and 30th March 1865, respectively.

Paragraph 3. *First.*—That the Rupees 1,200 was paid to Pareasawmy Moodelly "with the privity and consent of the said plaintiffs." The plaintiffs assert that they did object to the purchase of the house and property of Pareasawmy Moodelly, owing to their inability to pay their share to meet the balance of Rupees 2,800, and though no petition is forthcoming to that effect of a date prior to the 23rd March 1865, when the sum of Rupees 1,200 was paid to Pareasawmy Moodelly, the plaintiffs in a petition* to Colonel Greenaway, dated 26th April 1865, state that they submitted a petition to Captain Palmer on the 31st October 1864, objecting to the arrangements proposed by the thirty-three milkmen, who requested that the Rupees 1,200 might be paid to Manikum Moodelliar, the grandfather of Pareasawmy Moodelly; and though this petition is not forthcoming, I am not able to state that no such petition was submitted, and it is quite possible that if such a petition was submitted the plaintiffs have a copy of it.

* Z, enclosed.

Second.—That "the plaintiffs never made any objection either to the clearing of the said land, or to possession thereof being taken by the Government; nor have they objected, at the time of payment of the said sum of Rupees 1,200 to Pareasawmy Moodelly, to such payment being made." To this I cannot certify, for the plaintiffs did object to remove their huts, and in a petition, dated 30th March 1865, which, though not signed, Colonel Greenaway endorsed and sent to Mr. Cahill on the 3rd April, they begged that the money paid on the 23rd March, or only one week before, might be recovered and be deposited in the Cantonment Magistrate's Court, and this was returned with Mr Cahill's letter B.

Z, enclosed.

Finding that I could not file the reply as it stood, and believing that it might be possible to prove that the milkmen were mere squatters, and had no legal right of possession in the ground occupied by them, I addressed the Tahsildar on the 20th November 1868; but from his reply I find that the land in question, though situated within the Military Cantonment, appears to have been purchased by the ancestors of the plaintiffs from the original landlords of the village; that the small rate of Rupees 1-0-6 per annum was a fixed assessment whether the land was

No. 22, 16th January

cultivated or not; that a regular pattah has been granted for the land for upwards of twenty years; that the proprietors had a right of transferring the land to others by sale or otherwise; and that so long as the assessment was paid Government had no right to the land, but could only resume possession if the rent were not paid, or the proprietors surrendered it willingly.

Under those circumstances, I request further instructions relative to the suit. The case is to be heard on 6th proximo, but I shall instruct the Executive Engineer to request a further postponement for two months.

With regard to paragraph 3 of the Government Pleader's letter, I beg to state that Froolapa Cosan, the father of three of the plaintiffs, died ten years ago, and so did not sign the petition to Captain Palmer; and with regard to the question "whether any one, on behalf of Government, had any communication direct or indirect with the plaintiffs on the subject of the compensation to be paid to the milkmen," I have to state that it would appear that Captain Palmer had frequent communication with them, and, as stated in paragraph 5 of my letter No. 608, dated 30th September 1868, it is probable that Captain Palmer applied for Rupees 1,200 to Government, though the petitioners originally asked for only Rupees 1,000, for the express purpose of providing a margin to cover the value of the land of those who would not consent to the purchase of Parcasawmy Moodelly's house.

Three papers will, with reference to the previous correspondence on the subject herewith forwarded be referred to the Government Pleader for opinion as to the course to be followed under the circumstances now brought to notice by the Superintending Engineer of the 6th Division.

(Signed) CHARLES A. GRIFFIN, Colonel, R. E.,
Secretary to Government, P. W. D.

Fort St. George,
1st February 1869.

No. 384. From the Government Pleader, Madras, to the Secretary to Government, Public Works Department, dated Madras, 8th February 1869, No. 210.

I have the honour to acknowledge the receipt of the letter from the Superintending Engineer of the 6th Division, dated the 26th January 1869, with nine enclosures, forwarded to me for opinion as to the course to be followed under the circumstances thereby brought to light in reference to a suit filed by certain milkmen in Triplicane against the Officers of the Public Works Department.

2. On a careful consideration of the case as it now stands, I do not see how the suit can be successfully defended. Assuming that the facts as to the title of the plaintiffs to the lands in question are as stated in paragraph 3 of the Superintending Engineer's letter, it is clear that they were the owners of a part of the land taken by Government, and equally clear that they have not been paid their share of the purchase money, unless it can be shown affirmatively that they gave a consent, express or implied, to the payment of the whole purchase money to Parcasawmy Moodelly. Not only is there nothing to show this, but there is a good deal to show the contrary. They did not sign the petition of the 24th August 1868,

and if their statement to Colonel Greenaway is true, they objected to the arrangement immediately after it was proposed by the other milkmen, and they certainly objected to the payment of the money a week after it was made. In fact they appear all along to have wished to be paid the value of their land, or to be supplied with another piece of land of the same value.

3. It does not appear, from the papers before me, what was the nature of the negotiations by which the sum of Rupees 9,800 was fixed upon as the value of the milkmen's houses; but, I presume, that there is something to show that that sum was not intended to include the value of the site, and was not accepted by the milkmen in full discharge of their claims upon Government for being ejected; if it had been so, it might have been set up, on behalf of Government, that the grant of Rupees 1,200 for the purchase of a fresh site was an entirely gratuitous act, quite independent of the agreement entered into with the milkmen for compensation for their ejectment from their houses and land.

4. If, as is probable, the defence suggested in the last paragraph cannot be set up, it appears to me that the best course to follow under the circumstances would be to compromise the suit before it comes on for hearing, by payment to the plaintiffs of the fair value of their land, and steps might subsequently be taken to recover the amount so paid from the milkmen, at whose request the Rupees 1,200 was paid to Parcasawmy Moodelly. In thus advising I assume that it has been ascertained before this that the plaintiffs here not, at any time, occupied the land purchased from Parcasawmy Moodelly, and that there is no reason to doubt that their claim is a *bonâ fide* one. In making any such compromise care should be taken not to admit the liability of Government to pay any larger sum than Rupees 1,200 for the whole land, and to obtain from the plaintiffs a release in full of all their claims and the surrender of their titledeeds. The amount claimed by the plaint is, I presume, calculated upon the assumption that Rupees 1,200 is the value of the whole land.

5. With reference to the remark in paragraph 9 of the former letter of the Superintending Engineer, embodied in the Proceedings of Government, Public Works Department, dated 6th November 1868, I would suggest that inquiry should be made as to the genuineness of the signatures to the Petition A, and also whether all the persons whose signatures appear, entered upon the occupation of the land purchased from Parcasawmy Moodelly. Those who did so certainly cannot now dispute the arrangement under which the purchase was made, having enjoyed the benefit of it.

I return all the papers sent me.

No. 385. Office, thereon, 13th March 1869, No. 813.

ESTABLISHMENT, No. 36.

1. The papers recorded in the Proceedings of Government, dated 6th November 1868, No. 3,277, and which relate to the correspondent against Colonel Greenaway and Mr. Superintending Engineer of the 6th Division in the matter of Triplicane by certain milkmen for the retrocession of a share of the sum of Rupees 9,800 granted to them by Government

for providing themselves with a new site whereon to build their houses after the latter were purchased for the improvement of the Cantonment of Trichinopoly, having been referred to the Government Pleader for his opinion as to the line of defence to be followed and for a draft reply, that officer, with his letter of the 21st October 1868, No. 170, submitted a draft answer, which was communicated to the Superintending Engineer of the 6th Division, with instructions for the line of defence suggested by the Government Pleader being followed.

2. Captain Oakes now reports that he is unable to file the answer prescribed owing to his inability to certify to the correctness of certain statements contained in it, and he accordingly requests further instructions regarding the suit.

3. Captain Oakes' letter having been referred for the opinion of the Government Pleader, the latter officer now states that, under the circumstances explained by Captain Oakes, the suit cannot be successfully defended, and that the best course to follow will be to compromise it by a payment to the plaintiffs.

4. With reference to this opinion, and to that expressed by Mr. Brockman in his letter of the 21st October 1868, No. 170, the Government direct Captain Oakes to employ the Government Pleader at Trichinopoly in coming at once to a compromise by paying the amount sought.

5. The Government consider it advisable that in cases in which compensation for lands taken up for public purposes has to be disbursed, the payment should be made through the Revenue officers of the District in which the lands are situated.

(True Extract.)

Colonel, R. E.,
Secretary to Government.

To the Superintending Engineer, 6th Division, with Enclosures.
To all other Superintending Engineers.
To the Controller of Public Works Accounts.
Government Pleader.
Revenue Department.

R24 February 1869 Nos. 92-94
P.W. Secretary's Office
P.W. Sec. 8103.

Govt. of India.

PUBLIC WORKS.

To

THE SUPERINTENDING ENGINEER,

Gun Division.

&c., &c., &c.

Dated March, 13th.

Read. 16th

Encl.

G. O., 13th March 1869, No. 818.

MARCH.

Nos. 363-365

Land.—Passing orders on papers relative to the settlement of the claims of certain millmen of Trichinopoly for the value of their lands taken up in connection with the improvement of the Cantonment.