M.R.O. 1—20,000—16-10-52.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1421 Press Mis.

493-494

Dated 20th May 1869

Not to be folded or roughly handled

7.P G.O. 957 Rev dt 8.4.39

No. 493. Read the following Proceedings of the Board of Revenue, dated 22nd March 1869, No. 1946 :—

Read the following letter from J. A. C. BOSWELL, Esq., Acting Collector of South Canara, to the Acting Secretary to the Board of Revenue, dated Mangalore, 4th February 1869, No. 140.

With reference to the Orders contained in paragraph 7 of the Government Proceedings, dated 12th September 1867, No. 2164, communicated by the Board's Proceedings, dated 2nd October 1867, No. 6290, I have the honour to state, for the information of the Board, that the allowances of some of the share-holders in Jari Brahmadaya Inams, who died without direct heirs, have been continued to their successors by adoption from families quite unconnected with them before the issue of the above orders.

2. I would now request the Board will be pleased to accord their sanction to the resumption of these allowances prospectively, as I think the recovery of the payments already made to the successors of Inamdars above alluded to will be attended in many cases with difficulties.

3. I would further beg the Board will favor me with their instructions, for my future guidance, as to whether the transfers of Inams from one party to another under a deed-of-gift, sale, etc., should not be discountenanced on the part of Government, though they have been so long recognised without a check, as detailed in the returns and statements hitherto sent to the Board.

Submitted for the orders of Government, with reference to Government Order, 12th September 1867, No. 2164.

2. The Board are of opinion that the heirs by adoption who had succeeded to those Agraharum allowances before the Order was issued should not be interfered with now.

The Board presume that Mr. Boswell's inquiry in paragraph 3 refers to the same description of allowances. Government have taken the view that they represent an equivalent given by the State for value received, and the Board understand that they are to be considered just as any other private property, and may be alienated in the same way.

No. 494. Order thereon, dated 20th May 1869, No. 1421.

Miscellaneous.

The Government concur with the Board of Revenue on both the points raised by the Collector.

2. They consider that a "Jari Brahmadaya Inam," which was granted by a former Government in return for a "Nuzzur," should be looked upon in the light of a purchased annuity *in perpetuum*, and that the holder is at liberty to transfer his right to the same either by sale or gift.

(True Extract.)

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

To the Board of Revenue.

Fxd. V. Ramachendra Row.

Government (1869) of Madras.

REVENUE.

Rec'd. } 1869. Enclosures

Regd. Spare copies

G.O., No. 1421, 20th May 1869.

MAY.

Jari Brahmadaya Inams in South Canara.

Board of Revenue informed that the right of Inamdars to the same may be either transferred or sold.

Revenue 3

Rec'd 20th March 1869 No 1052
Answd 13th April 1869 No 245

Revenue 1869. 0 4 5.

Board of Revenue,
MADRAS.
No. 1052.

PROCEEDINGS, 22ND MARCH 1869, No. 1,946.

Copy 2nd April 1869 Encl.
Received 5th

Sent 1421. 20 May 69

MARCH.
No. 1,946.

Jari Brahmadaya Inams—of parties dying without direct heirs,—Letter from Collector of South Canara, requesting sanction to resumption of, and soliciting instructions as to whether transfers of Inams from one party to another, under a deed of gift, sale, &c, should not be discountenanced, submitted to Government with remarks.

493.

Revenue Separate

Memo: for order

In an Act of
de, dated the 26th March
1866 No 748, the Govt directed
the Collector of South Ca
and to take steps to
the classification of stock
monetary Grants
in his district: the majo
part of which, it was th
-posed to commute in
land. The Board pro
-posed that the grants
should be divided into
four classes, viz
-ligious endowments, (2)
Clerical emoluments, (3)
State pensions, and (4)
Personal grants.
2 With this Order
and with the above
Instructions

Declared void
1871

mentioned instruction
of the Board which
accompanied it, the
Collector complied in
a letter dated 20th Octr
1866. It is unnecessary
to summarize the whole
of his letter, upon which
final orders have been
already passed. But
in para 12, he recom-
mended that the cha-
ritable grants should
be made liable to ex-
emption, on failure
of legal heirs, assumed
as such grants were
only of a personal na-
ture. It appears that
Mr. Norris the former
acting Collector, had
been of opinion that
the Inam grants
were personal, allow-
ances which it was

not incumbent on the
State to continue in per-
petuity.

3. On this point, the
Board in Proceedings
dated 19th July 1867 (Exhi-
bit D) agreed with Mr. Nor-
ris and recommended that
Agraharam allowan-
ces should be paid
in money under Regu-
lation and that the pre-
sent recipients for
their lives in cases
where the grants had
not to Sidhuses had
been broken, and in
other cases for two
lives.

4. But the Govt
in their order dated
13th September 1867
(Exhibit E) dissented from
this opinion, and di-
rected that only the
allowances of share-
holders deceased,
without direct heirs
should be resumed-

till

With reference to this order the Collector on February 4th 1869:-

(1) requests that the Board would be pleased to record their sanction to the prospective resumption of the shares of certain shareholders in Jaricas Brahmadaya Inams to which they had succeeded by adoption from totally distinct families and not by lineal descent.-

(2) desires instructions as to whether the transfer of x Inams from one party to another under a deed of gift, sale &c should not be discouraged by Government.-

For

x It is understood that by Inams Agrahara allowances are meant.-

6. In beginning with the Collector's first query. On submitting his letter for orders the Board in Proceedings dated March 22nd 1869 they are now immediately before Govt "are of opinion that the heirs by adoption, who had succeeded to the Agrahara allowances, before the Govt order (dated 13th September 1869) was issued, should not be interfered with now.

7. It is clear however that their succession should be legal and ought never to have been permitted. It seems that no precedent for resuming the grants to an adopted son from a totally distinct family can be found. In submitting the recommendation now before Government etc

the Board have gone entirely against the spirit of their former Proceedings dated 19 July 1864 in which they were of opinion that all Agraharam grants should only be continued for one or at most two lives.

8. The question now before Govt is whether the expression in the G.O. dated 13 Septr 1864 (Harvey) "recommending only the allowances of shareholders deceased without direct heirs." is to be taken as referring only to those shareholders who died without direct heirs after the date of the aforesaid order, or whether it was sufficient authority for resuming all Agraharam grants which have been at any period illegally transferred by

by the rite of adoption between members of distinct families.

9. The Government may consider it a harsh measure to resume such allowances during the life time of the present holders. It would perhaps be advisable to direct the Collector to resume grants of this nature after the death of the present holders in

in all cases
where illegal trans-
fer by adoption
has taken place
within the last
fifty years.

10. As to the
Collector's decard.
query, it appears
from the previous
correspondence that
these Jhari Agra.
Lavem allowances
originated in
most cases
in

obtained tantamount to
the purchase of an
annuity. - WH

in the payment
of a nuzzur by
some individual to
the Government
of the day. They
may therefore be
considered as grants
conferred by the
Government in con-
sideration of
services rendered
to the State, and
they come under
Regulation IV of 31
which

The payment of money
down in the shape of a
nuzzur is hardly a service
to the state - Nor does this
lessen the allowance in which
case the property in it would
be absolute. W.H.

which is intended to provide against the alienation to persons who have no claim on the State, of such allowances, and which reserves to the Governor in Council the power to decide with reference to them. The Board of Revn in their Proceedings and considerations are of opinion that as Gratuitous allowances were granted by the State in consideration of value received, they may be treated like any other private property. If such were the case, their

The Board as now constituted take a fair & proper view of both the points raised. - Were it shewn that interference now with such property as is held under grants by adoption made prior to the Govt. order 13 Septr 1867. - as [illegible] Case of default or objection to [illegible] adoption would lead to immediate [illegible] of pensions & other payments to persons who have no claim on the State. - although [illegible] any corresponding benefit to the State. -

On this other point, it may fairly be urged by petitioners that the [illegible] power should be exercised only where it is shewn that as no part was a fair equivalent for value received and as no limit of duration was affixed to the grant, it seems to be [illegible] that the latter granted has acquired this ordinary character of [illegible] land & that it should be allowed to descend to heirs or be transferred by [illegible]

8 [illegible] by

Edwd

possession might be transferred by adoption were recognised by Government, and para 7 of the G.O. dated Sept. 13th 1867 would fall to the ground. But it seems that the Board have somewhat strained the principle laid down by Government, for it is clear by para 7. of the G.O. dated 13th September 1867, that Govt. intended the continuance of the allowances to be confined to direct heirs. It does not seem therefore that their possession can be transferred by sale or gift.

11. The questions before Government are contained in para. 5. -

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Revenue Department.

No. 1421.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 20th May 1869.

Read the following Report of the Board of Revenue

Submitting letter from Collr of South Canara requesting sanction to resumption of Jari Brahmadaya Inams of parties dying without direct heirs & soliciting instructions as to whether transfers of Inams from one party to another under a deed of gift, sale &c should not be discountenanced.

R. 22nd March 1869, No. 596

The Government concur with the Board of Revenue on both the points raised by the Collector.

2 They consider that a "Jari Brahmadaya Inam", which was granted by a former Government in

in return for a "nuzzur"
should be looked upon
in the light of a purchased
annuity in perpetuum
and that the holder
is at liberty to transfer
his right to the same
either by sale or gift.

Sd.

11 Copies Forwarded to Rev. Dept.

nised without a check, as detailed in the returns and statements hitherto to the Board.

SUBMITTED for the orders of Government, with reference to Government Order, 12th September 1867, No. 2,164.

2. The Board are of opinion that the heirs, by adoption, who had succeeded to those Agraharum allowances before the Order was issued should not be interfered with now.

3. The Board presume that Mr. Boswell's inquiry in paragraph 3 refers to the same description of allowances. Government have taken the view that they represent an equivalent given by the State for value received, and the Board understand that they are to be considered just as any other private property, and may be alienated in the same way.

(A true Copy and Extract.)

Sd Grole
Sub-Secretary.

To the Acting Secretary to Government, Rev. Dept.
Copy to the Collector of South Canara.

Exd. F. R. Bantleman.