

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	1367	Press ~~Mis~~
<i>1-2</i> Dated	1-9-	1870

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
1st September 1870.*

though indisposed to modify the Deputy-Collector's settlement, authorized Mr. Ballard, if the rates fixed for Cochin were higher than those charged in other parts of the district, to adopt the lower rates of valuation suggested by him.

5. Mr. Ballard, after making personal local inquiries, addressed the Board as to the desirability of reducing considerably the valuations, and stated:—
Letter, dated 12th December 1867, No. 283B.

(1.) That although "the Deputy-Collector's valuations are perfectly justified by local custom, i.e., if a private purchaser was desirous of investing in land at Cochin, he would certainly, as a rule, consider himself fortunate if he could purchase at the rates at which the Deputy-Collector valued it." Still "in such a settlement as the present, the ordinary market-value, although it may afford some criterion to go by, is not the standard of valuation to be adopted.

(2.) "That the sales are, to a certain extent, forced.

(3.) "That so much land should be sold simultaneously in so contracted an area is another circumstance which makes it necessary to deal liberally with the occupants."

(4.) And that from his local inquiries he had reason to believe that though in small transactions and exceptional cases the patom or rental of cocoanut trees may run above a Rupee, he was convinced that a Rupee was too high a standard for the present settlement. He therefore wished to have the valuations revised, taking three-fourths of a Rupee as the highest rate down to six Annas as the lowest. Mr.

Ballard also submitted a letter* from Deputy-Collector Kanaren, protesting against the proposed reductions, on the grounds that the rates fixed by him for the Cochin gardens was not in excess of those charged in other parts of the district, taking into consideration the productiveness of the gardens and other local advantages tending to increase the value of the lands. He observed, "the value estimated on the gardens in Cochin by the (local) arbitrators was Rupees 4,18,274, but the price I have sold them for amounts to Rupees 1,94,493-4-0, the difference of Rupees 2,23,780-12-0 having been deducted by me from the estimated amount; this reduction has, to the best of my knowledge, been made after due consideration, and also in consistence with justice and mercy."

That "the Government gardens throughout the coast talooks in Malabar were valued on the same general principle, i.e., in reference to the number of trees and their produce."

6. The Board, in reply, stated that the reasons adduced by Mr. Ballard were not weighty enough for disturbing the Deputy-Collector's valuations of the Cochin gardens, and added that "it must be considered that the gardens in question are highly valuable town lands in the middle of one of the most important seaport towns on the coast, which, when included in the system of railway lines, will most probably take precedence of every port on that coast except Bombay," and therefore "accepted the original valuations and confirmed them.

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1st September 1870.*

Letter, dated 5th September 1868, No. 255.

7. The Collector again ventured to beg consideration of the subject on the following grounds:—

"There are some 400 individual tenants of Government lands who were encouraged for a quarter of century and more to look upon their tenancy as an occupancy only inferior to proprietary right, and beyond arbitrary enhancements of rentals, save on the clearest grounds. The Board would now fix a value on these occupancies which is tantamount to doubling or tripling the rental at a stroke, and, moreover, require the tenants to pay the capital representing this enhanced rental in a few lump instalments.

"I consider we are perfectly justified in requiring the tenants to purchase the proprietary right, but clearly the most scrupulous care, nay even liberality, should be exercised in the prices fixed for these compulsory sales. The difference between occasional sales in ordinary course and sales of this nature where all the properties in a small community are required to be brought at once, must be borne prominently in mind."

Mr. Ballard also stated that the Board were aware of the large amount of balance outstanding on account of escheat sales; that in some places, especially in

* Ultimately sanctioned for Walluvanad. Vide Board's Proceedings, dated 2nd December 1868, and 8th April 1869, Nos. 8,476 and 2,387.

Walluvanad, the Deputy-Collector's valuations would require revision,* and that if their present instructions are carried out, "very harsh and objection-

able measures will have to be taken, or the balance in Cochin will be heavy and swell the already large outstandings."

8. The Board, in finally disposing of the subject, stated that they did not consider that grounds have been shown for disturbing the valuation of the Deputy-Collector.
Proceedings, 23rd November 1868, No. 8,264.

9. Having thus epitomized the correspondence connected with the case, I proceed to notice the statements contained in the petition. The Memorialists are land-holders who would fall under Class Government Order, 19th May 1869, No. 1,390. I alluded to in Mr. Ballard's letter, dated 30th October 1868, No. 316A., as tenants paying the Land-tax as well as the land-lord's rental.

10. Referring to paragraphs 2 and 3 of the Memorial, I beg to observe that the lands at Cochin were reclaimed like all other Government waste lands, but the jenm or proprietary right was not alienated, Government being here in the position of a Jenmakar or proprietor, has the same power of ousting the tenant, paying him for his improvements—a usage well understood locally. Petitioners do not claim the jenm of the lands. They only complain that they are compelled to purchase this right at an exorbitant valuation; or in default to see the jenm right pass from Government into the hands of others, who will not be so scrupulous in regard to ejectments.

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11. Prior to 1847, the Cochin gardens were farmed out to the highest bidder on leases of 20 years, absolutely resumable at the expiry of the term. Such being the then unstable nature of the tenancy, it is not probable that large sums have been expended as alleged. The system having been found to have a repressive tendency and unjust to the smaller tenantry, it was from that date changed, and puttahs or leases granted, as far as possible, in the names of the tenants themselves; so that when Government in 1847 acknowledged and treated directly with the tenants, whose representatives the petitioners generally are, they received their holdings, certainly not as "barren wastes and swamps," but in some degree of cultivation. They can only justly lay claim to improvements and expenditure made since that period. For these, sufficient remuneration was fixed at the Settlement.

Paragraph 2 of the Deputy-Collector's letter, dated 17th February 1866 is quoted below in support—
"The appellants (Fernandez, etc.) state that they underwent an expenditure of Rupees 60,000 of their own in improving the estate in question, but what I find is, that this estate has enriched the poor family as is generally known. For many years, prior to 1847, this estate, as well as others in Cochin used to be farmed out by auction for the term of 20 years. It is a known fact that the next day after the expiry of the term, the lease-holder has no right to put his foot on the land. Such being the case, can it be credited that the appellants' father, a poor blacksmith, would have laid out money on the estate of Government. I know the estate since 1850. It is almost in the same state as it was then."

12. As to the credibility of their statements in paragraphs 4, 5, and 6, I have already shown elsewhere that though Mr. Ballard for very cogent reasons advocated a reduction of some Rupees 31,000, still he repeatedly admitted that the Deputy-Collector's valuation was sanctioned by local usage.

The Memorialists confound the redemption of Land-tax and consequent conversion of their lands in freehold with the redemption of the jenm or proprietary right which now vests in Government. For example, taking the Fernandez Estate, there is now paid to Government Rupees 936 per annum, of which Rupees 566 represents the rental, and Rupees 369 the Land-tax. On purchase, the former demand ceases, but the latter continues. The petitioners have been granted the right of pre-emption. What they contend for is, that Government should forego its right as Jenmakar, and should give them a perpetual lease. They know they are not obliged to buy the jenm from Government, but are also aware that if they do not, it will be sold to others, who will have the power of ousting them on payment of improvements. This they wish to avoid.

13. With reference to the statements contained in paragraph 6 of the Memorial, I have the honour to state that the allegations of the petitioners are opposed to the facts. In fixing the compensation to be paid to the cultivators, a half of the redemption value was taken, and not a twenty-fifth, as the petitioners allege. I may add that no compensation was paid for trees planted prior to 1847, as by the terms of the lease then executed, it was provided that no compensation was to be granted for any trees that have been enjoyed by the occupants for twenty years.

14. As regards the encroachments of the sea, alluded to in paragraph 9, there may be some truth in petitioners' statements, the extent to which this risk has diminished, the market-value of the property cannot be determined, unless the jenm is put up to auction. If the occupants of lands situated on the sea-beach are

*Proceedings of the Madras Government, Revenue Department,
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unwilling to purchase the jenm, it can be put up to auction, and they can then bid what they consider a fair price. The present value has been fixed on its present condition. Since the receipt of the Board's Proceedings, dated 23rd March 1868, orders have been issued for the collection of the arrears.

REFERRED to the Board of Revenue, with the Memorial for their early remarks.
(Signed) R. A. DALYELL,
Acting Secretary.

6th June 1870.

ENCLOSURE No. 1.—Petition.

THE Board see no reason to doubt the equity and reasonableness of the settlement and valuation made in respect to the town-lands in Cochin.

2. The petitioners are tenants of land in Cochin, the jenm property of Government, which, till within the last twenty years, used to be rented out from year to year to the highest bidder. As has been done in the case of all land, the jenm property of Government (whether by escheat or otherwise) in Malabar, it has been resolved to dispose of the fee-simple and the existing tenantry have been allowed the right of pre-emption at a fair valuation of what constitutes the jenmi's right and property according to the acknowledged local custom. The valuations for the purposes of this transfer were made by the able Deputy-Collector who has valued and disposed of between 20 and 30 lacs of Rupees of property under similar circumstances within the last fifteen years, and the price at which the settlement is offered to these tenants is far below what the property would bring if disposed of in the open market. Their claim to be relieved from the necessity of paying (in common with the large body of tenants of escheat land, etc.) a price for the jenm right of these properties which others would freely give, seems to the Board unreasonable.

No. 2. ORDER THEREON, 1st September 1870, No. 1,367.

Miscellaneous.

ORDERED that the Memorial, received with the first of the above papers, be despatched to the Home Government,

and that the Memorialists be informed of its despatch.

(True Extract.)

(Signed) H. E. STOKES,
Under-Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

2131
20-8-02
J. T. J.

His Excellency
The Right Honorable Baron Rapiet
K. J.
Governor in Council
Fort St. George
Madras.

My Lord,

We the undersigned holders of Government lands in British Ceylon, beg respectfully to re-submit herewith for transmission to the Right Honorable the Secretary of State for India, our Memorial dated the 31st ultimo which was returned to us on the 16th Instant under Rule IX of the Rules for Memorials to Her Majesty's Government, and which has now been printed and the necessary forms complied with.

We take this opportunity to repeat our prayer that the contemplated sale of the Government lands may be held in abeyance, pending

Original
GOVT. OF INDIA
REVENUE
THE BOARD OF REVENUE
Date: September 11th
Recd. 1001
C. O. 14 Sept. 1897, No. 1,807.
MEMORIAL
Nos. 1-3.
Cochin Gardens—Memorial from certain inhabitants of British Ceylon to be relieved from the payment of penny-right of lands in their occupation, ordered to be forwarded to Her Majesty's Government.

the decision of the Secretary of State.

We have the honor to be
My Lord

Your Lordships' most
Obedient Servants

See him 27th
August
1864

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Joseph Fernandez

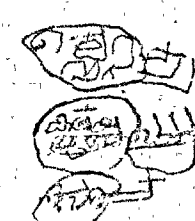
Joseph Fernandez

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11th Aug 1880
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7.

Proceedings of the Madras Government.
Under date the 1st Sept 1840.

Read also the following
Proceedings of the Board of Revenue

(H. E. 11th July 1870, N^o 4815.)

Ordered that the Memorial received with the first of the above papers be despatched to the Home Government, and that the Memorialist be informed of its despatch.

14 To the W of Pine. Depth 9. Lpts

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Request About the Sen:
 Certificate of Sale of the
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 and the decisions of the
 Dept of State for land in.

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Proceedings of the Madras Government.
Under date the 1st Sept 1870.

Read also the following
Proceedings of the Board of Revenue

(H. & II July 1870, No. 4815.)

Ordered that the —
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first of the above papers be
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Government, and that the Memo.
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14 Letter to Wm. Brewster 9. Sept.

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