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REVENUE DEPARTMENT

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Proceedings of the Madras Government, Revenue Department,
27th July 1871.

No. 341. Read the following Proceedings of the Board of Revenue, dated 19th May 1871, No. 2,066 :—

Read the following letter from the Acting Collector of Coimbatore, to the Acting Secretary to the Board of Revenue, dated 20th February 1871, No. 61.

WHEN His Excellency the Governor came to Coimbatore in August last he paid a visit to the Peyroor Pagoda, on which occasion the members of the Devastanum Committee represented to His Lordship that in 1851 certain Inam lands belonging to the temple had been resumed by Government, which lands they begged might be restored to them. They were directed by His Excellency to submit their application in writing, and this they have now done under cover of a petition to me. Both documents, with translations, are herewith submitted for the consideration of the Board of Revenue with the following remarks.

2. The petitioners' case may be thus briefly stated :—

From Fusly 1212 (A.D., 1802-3) the lands of Mavattumpathy, a hamlet of Peyroor in the Coimbatore Talook, were, with other lands, situate in the same talook and in the talooks of Poolachy, Kangyam (now incorporated with Dharapuram), and Pulladum, held as Inam by the Devastanum. In 1851 (Fusly 1260) under an order dated 7th January of that year, No. 439, issued by Mr. Thomas, who was then Collector of the district, these lands were resumed and incorporated with the Government ayacut. A translation of this order is enclosed, and the Board will find therein the grounds on which this resumption of a portion of the Pagoda Inam was made by Mr. Thomas.

3. I confess that, after a careful consideration of all the documents bearing on the case, I am unable to endorse Mr. Thomas's opinion. He argues, that as Mavattumpathy is not specifically stated in the Tasdeek patty of Fusly 1212 to be devastanum Inam, its inclusion as such in the subsequent Inam settlement, conducted by Mr. Garrow in Fusly 1214, must have been a mistake. But surely it is fairer to suppose that the omission of Fusly 1212 was supplied in Fusly 1214, when the Inam question was thoroughly investigated. This is the view I take, and so does the Head Assistant Collector, whose report I enclose. Moreover, the very fact of these lands having formed a portion of the Pagoda Inam for the space of forty-eight years is of itself sufficient to establish a prescriptive right which there is no overcoming, and, when into the bargain it is clearly shown from Government records that the title of the pagoda is unimpugnable in every respect, the question of restoring them to the rightful owners with the least possible delay, as a simple matter of justice cannot, I think, be disputed for a moment.

4. It will be observed, that since the resumption of these lands, an anicut has been built by Government across the Wal[illegible]ar river at a cost of Rs. 1,500 and odd, by which fifteen cawnies of land have been brought under wet cultivation, and that the present revenue amounts to Rs. 1,260 per annum against an average return of Rs. 80 between Fusties 1212 and 1259, so that the property has not deteriorated under our management. Against any expenditure on the part of the State, however, must be set the insane profits of the last twenty years, and the value of 252 bullocks made over to the Forest Department, which it would be inconvenient to restore to the pagoda. The members of the Temple Committee have,

in a petition (original and translation enclosed) expressed their willingness to forego all claim under the above heads if the Government will restore to them 564 bullahs of punjah land and fifteen cawnies of nunjah land *plus* 50 bullahs of poremboke situate within the limits of Mayuttumpathy, it being further understood that, in consideration of their relinquishment of the above-mentioned claims, the Temple Committee are not to be charged for any improvements carried out at the expense of the State during the time they were excluded from the enjoyment of the lands assigned to the temple previous to the commencement of British rule, and confirmed to them in Fusly 1214 (A.D., 1804) by the representative of Government.

5. The state of the account between Government and the Committee, when reduced to figures, would be as follows :—

		Rs.	A.	P.
By cost of constructing an anicut	... ...	1,524	11	4
Per contra—				
To mesne profits of twenty years	...	10,618	11	6
To value of 252 bullahs, transferred to Forest Department, at Rs. 20 per bullah, the amount of compensation paid for 64 bullahs in the occupation of ryots	...	5,040	0	0

which, putting aside interest, leaves a pretty fair balance in favour of the Committee.

6. I feel certain that the Board and Government will, on a perusal of the accompanying statement of the case, acquiesce in the propriety of complying with the very moderate demands put forward by the Temple Committee, and as it is impossible to discuss the fact that they have been very arbitrarily dealt with, I venture to hope that the subject may receive early attention.

7. I have only one explanatory remark to add. In Mr. Garrow's settlement of Fusly 1214 the extent of land within Mavuttumpathy limits is put down at 564 bullahs. It has subsequently been discovered that the ayacut of Mavuttumpathy is considerably in excess of this; but as the whole lands of the village bearing that name were assumed for the support of the temple, the claims of the Committee cannot be restricted to the extent erroneously entered in the old register. Subsequent measurements have shown that the ayacut embraces 566 bullahs of punjah and poremboke and fifteen cawnies of wet, and a professional survey would probably reveal a larger area. The Committee only claim, as stated above, 564 bullahs of cultivated punjah, 50 bullahs of poremboke, and 15 cawnies of nunjah land; but, considering all the circumstances of the case, it would only be fair to have a regular survey made of the village, and after deducting the amount ryots or to the Forest Department to which the Committee relinquish all claim, to assign to them the remaining extent of land within its limits.

Enclosure No. 1.

Abstract.—Translated copy of a Petition to the Right Honorable the Governor in Council, from the Members of the Deva Thanam Committee at Peyroor.

Enclosure No. 2.

Abstract.—Translation of a Petition presented by the Members of the Devastanam Committee of Coimbatore Taluk to the Collector of Coimbatore.

Enclosure No. 3.

Abstract.—Translation of an Arzi addressed to E. B. Thomas, Esq., Collector of Coimbatore, by Sama Rao, Tahsildar of Coimbatore Taluk, dated 29th July 1850, No. 16.

Enclosure No. 4.

Abstract.—Translation of a Tukeed issued by Mr. Thomas, Collector of Coimbatore, to Sama Rao, Tahsildar of Coimbatore, dated 7th January 1851, No. 4.30.

Enclosure No. 5.

From the Acting Head Assistant Collector, to the Acting Collector of Coimbatore, dated Pollachy, 28th January 1871, No. 41.

With reference to your endorsement, No. 218, dated 7th November 1870, on the petition of the Peyroor Devasanam Committee, I have the honour to submit the following report.

The Committee, through their agent, Ananthu Rao, claim that the lands situated in the village of Mavuttumpathy in the Coimbatore Taluk, which were resumed and incorporated with Sircar land by order of the late Collector Mr. Thomas, may be restored to them on the ground that they were allotted to the Peyroor Pagoda as Inam, so far back as Tippoo Sultan's time and prior to the conquest of this part of the country by the British, and that Mr. Thomas's order to resume the land from the Pagoda was an error and unjust. Petitioners' contention is as follows :— They assert that the land in dispute has been attached to the Peyroor Pagoda from Tippoo Sultan's time down to Fusly 1260, or A.D., 1851 ; that in Fusly 1214 the Inam lands were assigned to the different Pagodas throughout the district, and amongst the rest the land in dispute was assigned as Inam to the Peyroor Pagoda ; that in Fusly 1217 an inquiry was held into the subject of the present petition, when it was found that the land situated in Mavuttumpathy formed part of the Pagoda Inam, and were confirmed to it as such ; and that the Tirvadayam (assessment) on them continued to be paid to the "Dharmakurta" down to Fusly 1267, in which year the lands were made over to ryots, but again resumed in Fusly 1269 by order of Mr. Thomas and incorporated with Government lands, since which time they have been deprived of all benefit accruing from them.

Petitioners allege that in consequence of some disagreement, which the Curnum and Moneagar of the village had with the "Dharmakurta," the former in Fusly 1269 instigated the villagers to make some communication or other, the purport of which they were not acquainted with, to Mr. Thomas, which gave rise to an inquiry being held and the order passed by Mr. Thomas being made. They state that they do not know why no share was made for the recovery of these lands by the Dharmakurtas and Committees who have preceded them, and they ascribe the illiberalness of the present Committee (which has only been appointed five or six years ago) in putting forward their claims to their desire to search all the records, etc., relating to the matter, and to make themselves thoroughly acquainted with the history of their case before bringing their claims forward.

2. In an inscription on a stone fixed outside the northern wall of the Mahamandapam in the inner "prakaram" (surrounding wall) of the Pattiswaraswami Koyil, it is mentioned that Mavuttumpathy was dedicated to the Pattiswaraswami Pagoda at Peyroor by a man called "Manonkaramanda Kolmalayavaru," and the stones used to define the limits of the village of Mavuttumpathy are impressed with the sacred conch and seal (*sanka chakra*), which are rele-

gious motive, and which therefore point to the presumption that the village was dedicated to a religious purpose, or, in other words, was dedicated to the support of the kovil.

3. On a reference to the records relating to this village, it appears, from the Canarese accounts produced by the Curnam and the cultivation account for Fusly 1213, that "the lands of Mavattumpathy belonged to the Peyroor Devastanum." The same statement appears in the Pymash Colangoo accounts for Fusly 1212, and in Fusly 1214 (the year in which all the Inam lands were allotted to the different Pagodas) these lands were entered as Peyroor Pagoda Inam lands.

4. Mr. Thomas, in his takeed to the Tahsildar, dated 7th January 1851, No. 439 (translation of which accompanies this), states that the village of Mavattumpathy was not mentioned in the "Tudeekeepatty" (list of lands, etc., assigned for the support of the Pagoda) of the Peyroor Devastanum, and that in the "Colangoo" accounts it is referred to as "belonging to the Peyroor Hobly," but not that it belonged to the Peyroor Devastanum, and that it was *conjectured* that the lands of Mavattumpathy (at present claimed) were entered in the accounts by mistake as Pagoda Inam lands, and he accordingly directed them to be resumed and incorporated with Sircar lands. This was accordingly done, and they have ever since been retained as such.

5. Now, the expression that Mavattumpathy belonged to the "Peyroor Hobly" may bear the interpretation that Mr. Thomas seems to have put on it; but it appears to me that it may have been used regarding the village without reference to its connection with the Pagoda as Inam land, and to denote that the village was situated in the "Peyroor Revenue Hobly," or, as it appears to me, it may also have been used to denote that the village with its lands belonged to the division forming the Peyroor Inam lands.

6. But, whether my interpretation of the expression be the correct one or not, I am clearly of opinion that the balance of evidence is strongly in favour of the petitioners' claim. You will observe that in Mr. Thomas's takeed it is stated that "it is supposed that the lands were entered in Fusly 1214 as Inam lands attached to the Pagoda by mistake;" but as petitioners very fairly put it, is it scarcely credible, in the first place, that the land should have been entered by mistake in the accounts in Fusly 1214 (when an inquiry must be presumed to have been made into the subject) as Inam lands attached to the Pagoda, and again confirmed to it on inquiry in Fusly 1217, and, in the second place, that such an error, involving interests of considerable magnitude (the income derived from the lands is stated in the Rs 967-4-8), should have remained undetected from Fusly 1214 to Fusly 1260, or a period of 46 years, during the whole of which time the income derived from the lands was duly and regularly paid over to the Devastanum?

7. In my humble opinion (but I give it with very great diffidence with the order before me), Mr. Thomas's takeed was issued under a misconception of the facts of the case; and I think that, with the unimpeached and unimpeachable proof produced that the lands in question were attached to the Pagoda in Fusly 1213 (and presumably long before that) and were confirmed to it in Fusly 1217 by the British Government, and that the Pagoda Devastanum Committee continued to receive the emoluments derived from these lands from Fusly 1214 (the year in which they were confirmed to it) down to Fusly 1260, in which it was deprived of them by Mr. Thomas's order, the petitioners have made out their claim, and are fairly entitled to recover possession of the lands claimed by them.

8. The description of the lands, recovery of which is sought for, is set forth in the statement marked A) which accompanies this, and in recommending that they be restored to the Peyroor Devastanum Committee, I would suggest that a proviso be attached to the effect that it should be understood that the Committee were not entitled to recover any portion of the emoluments that may have been derived from these lands from the date of Mr. Thomas's takeed up to the time when they may be restored to them.

9. I beg, herewith, plaintiffs' petition, koreewah, together with Arzi No. 347 of 1870 from the Tahsildar on the subject.

ENCLOSURE No. 6.

ABSTRACT.—Translation of a Petition presented to H. E. Sullivan, Esq., Acting Collector of Coimbatore, by the Members of the Devastanum Committee at Coimbatore, dated 12th February 1871.

ENCLOSURE No. 7.

ABSTRACT.—Memorandum showing the resumption of the tract of country known as "Mavattumpathy" from the Peyroor Devastanum and incorporating it with Government assets.

THIS letter will be submitted for the orders of Government.

2. The Acting Collector claims, on behalf of the Trustees of the Peyroor Temple, the restoration of the land included in the limits of the Mavattumpathy hamlet of the Peyroor village.

3. There is no reason to doubt that the entire village of Peyroor with its hamlets was an ancient endowment of the Peyroor Pagoda. The local inquiry held in 1849 clearly established this fact.

4. In the early accounts of Pagoda property framed in 1802 the village of Peyroor is mentioned in general terms as assigned to the Pagoda, and in the Inam Settlement Account of 1804 the Mavattumpathy hamlet is individually named with others as pertaining to the Pagoda. Occupation on account of the Pagoda seems undisputed.

5. For many years the Poditaram (Temple endowments) were under the management of Government officers, and when relinquished in 1847 the Mavattumpathy hamlet was amongst those restored to the Trustees in accordance with the early settlement.

6. In 1849 the Collector Mr. Thomas seems to have entertained doubts as to the right of the Temple to the hamlet and its lands, and he ordered an inquiry. The report of the Tahsildar shows that evidence of long possession, etc., of the usual character was in the hands of the Trustees, and he reported clearly in favour of the title of the temple.

7. The Collector, however, did not consider that the general term "Peyroor," the name of the village (*Mowzah*), of which Mavattumpathy is a hamlet (*Mazrah*), in the list of Pagoda property prepared in 1802 included this hamlet. He treated the distinct mention of Mavattumpathy in the final Settlement Accounts of 1804 as a mistake, and summarily confiscated the property. Mr. Thomas's decision was undoubtedly wrong.

8. No appeal against it was prefer

9. The Board consider that the hamlet should be restored to its owners at once. If mesne profits were claimed, it would be a question how far the delay in appealing invalidates the claim, and whether the water provided by the anicut built by Government since the village was resumed should be paid for; but the Temple Committee offer to waive all claim to mesne profits, and to give up a large extent of land which has been set apart as a forest reserve if they are not charged for the anicut. This arrangement seems to be fair.

No. 342. Order thereon, 27th July 1871, No. 1,806.

Miscellaneous.

It clearly appears from these papers that the proceedings of Mr. E. Thomas, the Collector (1851), in resuming this hamlet were erroneous. He decided that, although the village of Peyroor indisputably belonged to the Pagoda, the hamlet of Mavattumpathy, subordinate to Peyroor, was not included in the grant; but it is now shown that—

(*a*) The hamlet is specifically named as pertaining to the Pagoda in the Inam Settlement Accounts of 1804.

(*b*) That so long as the British Government were in the position of Trustees and Managers of Pagoda property, namely, down to the year 1847, the rents received from the lands of the hamlet were regularly credited to this temple.

(*c*) And that from that date to the 7th January 1851, when Mr. Thomas issued his takeed to the Tahsildar, resuming the entire hamlet, the lands were in the direct possession of the temple wardens.

2. The Governor in Council cannot doubt therefore that the order of 1850 should be reconsidered. The present Collector has stated that "since the resumption an anicut has been built by Government at a cost of Rs. 1,500 and odd, by which fifteen cawnies of land have been brought under irrigation, and that the present revenue amounts to Rs. 1,460 per annum against an average return of Rs. 60 between Faslies 1262 and 1264." Against any State expenditure there must however, he observes, be set the inams profits of the last twenty years, and the value of 252 bullahs which have been definitely assigned to the Forest Department.

3. To these inams profits as well as to the land set apart as forest-reserve the Inam Committee have offered to waive all claim, provided they are not charged for the water furnished by the anicut. The Board of Revenue strongly urge that the hamlet be restored on these terms, and the Government are pleased to convey their assent.

(True Extract.)

(Signed) A. deC. SCOTT, Captain, R.E.,
Under Secy. to W.D.,
for Secy. to Govt.

To the Board of Revenue.

Col. E. R. Gentleman.