No. 56. Read the following Proceedings of the Board of Revenue, dated 20th October 1873, No. 2,147 :—

Read the following letter from H. S. THOMAS, Esq., Collector of South Canara, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Mangalore, 16th September 1873, No. 1,573 :—

With reference to the Proceedings of Government, in the Revenue Department, dated the 14th May 1872, No. 771, I have the honour to request the Board's instructions on the following subject.

2. The order of Government directs that the piece of land which formed the subject of the Civil suit between Government and one Mrs. Elizabeth Coelho, the late owner of it, should be restored to her, "on the understanding that the terms of the original lease must be fulfilled."

3. This lease, as the Board are aware, having been cancelled in a regular law-suit, it seems necessary that a fresh agreement should be entered into with Mrs. Coelho (before she can be put in possession) renewing the former lease, and that the document should be duly stamped and registered under the existing law.

4. In the execution of such a document a difficulty presents itself.

5. Under the original lease, the lessee is simply bound to maintain on the ground a "brick messuage" the nature of which is not defined. In the absence of such a definition, a brick messuage may mean any kind of building, and the pandit [illegible] erected [illegible] suited for the residence of a native. There is also nothing in the document to prevent the owner from building even a shop instead of a bungalow, and still calling it a "brick messuage." On reference to my letter, No. 672, dated 16th July 1868, embodied in their Proceedings, dated 4th August 1868, No. 5,663, the Board will perceive that a difficulty had arisen on this very point during the progress of the Civil suit. To guard, therefore, against such a contingency in future, I asked the District Engineer to prepare a plan of the building to be erected in the compound for the purpose of being shown to Mrs. Coelho, so that there should be no misapprehension as to the nature of the building to be erected. This plan, which is enclosed, simply provides for the restoration of the old bungalow on the existing foundations, with very slight alterations to secure a little more accommodation than was to be had in the old building, these alterations consisting of an additional room to serve as a Drawing-room, a Bath-room, an Orderly-room and a small Office-room besides the broadening of the veranda from six to nine feet. The additions are, I think, necessary if the bungalow is to be used by a European officer, and the building should, in my opinion, be such as to accommodate either a married officer or a couple of bachelors. The District Engineer estimates the cost of the building at Rupees 7,060 if the whole is to be of masonry, but it appears the cost can be reduced to about Rupees 5,000 or even less, if mud walls and stone pillars are substituted. Moreover, private parties can always build more cheaply than Engineers estimate. There are also some of the old wall materials available. I conceive that a house on the enlarged plan could thus be built for less than Rupees 4,500, which at 12 per cent. would give a rent of Rupees 45 a month.

6. The above plan having been shown to Mrs. Coelho, she has not yet signified to me her willingness to adopt it. She states that a house exactly like the former one will suffice. But I do not think she really wishes to be tied to any plan at all. So far as I can gather from her conduct, there is every reason to believe that in petitioning Government, for the restoration of the compound, she never meant to re-build the bungalow, her object being apparently to be able to collect the produce of the Cocoanut trees, etc., standing on the ground, while it is not also improbable (as it is said) that in lieu of a bungalow she proposes to erect a small house suited for the residence of a native, just to answer the requirements of the old grant, and then to erect a shop or row of shops along that side of the compound which faces the main cantonment road, and devote the remainder of the ground to the extension of the Cocoanut plantation.

7. I have therefore the honour to request the Board of Revenue will be pleased to inform me, whether I am to insist on Mrs. E. Coelho's definitely adopting, within a certain date, either of the plans* herewith enclosed, or any other plan, and also to bind her to complete the house within a definite period. I beg also to be informed whether a special clause should be inserted in the agreement which will preclude her from raising any other buildings not subsidiary to the bungalow on the ground in question.

* A. Plan prepared by the District Engineer.
B. A plan suggested by the Collector.

8. I may mention that a bungalow built on the above plan would be easily rentable if not by the Military Officers, at least by the Christians, of whom there are not a few at the station, and that it would be a fit quarters for the Head Master of the Provincial School to which it adjoins, or an Assistant Collector or Engineer.

9. I think it very undesirable that a row of shops should be allowed to be built on the site in question, as it would bring the noise and dirt of the town into the very midst of the cantonment.

10. I would propose that if Mrs. Coelho does not accept the terms that may be ordered within the time decided in the order, the site should be otherwise disposed of, either by being sold at auction subject to like conditions (the site being still kept within Military limits and authority) or by being kept open as a place of recreation in connection with the Provincial School to which it is opposite, or if thought well, sold outright.

11. A whole year has been spent in the vain endeavour to get Mrs. Coelho to come to the terms proposed, and I may add, that I had great difficulty in getting her to pay up Rupees 42-1-3 the costs of the suit, and the value of the produce of the land for three years, subsequent to the institution of the suit as decreed by the Court. It was only by threatening a new suit, together with a recommendation to Government to re-consider its liberality, that I got her to pay up this very subsidiary claim so obviously due from her.

Enclosure A.—Plan prepared by the District Engineer, with Estimate and Specification.

Enclosure B.—Plan suggested by the Collector.

Submitted for the orders of Government.

2. The Board are of opinion that as regards the building to be erected on the land Mrs. Coelho ought not to be required to do more than restore within a definite time the bungalow or dwelling house and offices as they formerly existed; but considering that the concession made by Government was purely an act of grace, they would recommend that conditions be inserted in the new lease prohibiting the erection of any other building on the land, or the use of it for other purpose than as the compound of a dwelling house.

3. A new lease embodying these terms should be tendered to Mrs. Coelho for execution, and if she fail to execute it within a week, the Government concession should, the Board think, be revoked, and the land used for the Provincial School. Any compensation which might be found to be due might be provided for by a sale of a portion of it.

No. 57. Order thereon, 5th December 1873, No. 1,352.

Miscellaneous.

The terms recommended by the Board of Revenue are approved.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

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Board of Revenue,

MADRAS.

PROCEEDINGS, 20TH OCTOBER 1873, No. 2,147.

Received 30th October 1873.

G. O. №. 1352—5 Dec.

OCTOBER.

No. 2,147.

Land—which formed subject of Civil suit between Government and Mrs. Elizsbeth Coelho, in South Canara District, and which has been made over to her under orders of Government.—Collector's letter requesting instructions as to buildings to be erected on — by the lessee, submitted for orders of Government.

With order

Read 12th May 1874 No 134-87.

Encl. to Ltr

No. 1352

The Board recommended by the Board of Revenue are approved.

5th Dec 1873

14 B. of Revenue
16th October