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Revenue 1873. Oct
Board of Revenue,
MADRAS.
H. 551.

PROCEEDINGS, 21ST FEBRUARY 1873, No. 258.

Imp 25 Feb 73.

Encl. 2
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Received 26. —

FEBRUARY.
No. 258.

Sub-Collector's Cutcherry—at Rajahmundry in Godavery District.—Estimate, amounting to Rupees 10,400, for construction of — submitted to Government for sanction.

No 253

14 To the Secretary Revenue Department
6 To the Assistant Secretary
21 To the Collector of Godavery District

No 24-25

Sub-Collector's Cutcherry—at Rajahmundry in Godavery District.—Estimate, amounting to Rupees 10,400, for construction of — submitted to Government for sanction.

18 March 73

254
Proceedings of the Madras Government, Revenue Department,
4th March 1873.

No. 26. Read the following Proceedings of the Board of Revenue, dated 23rd February 1872, No. 369 :—

Read the following Proceedings of the Madras Government, dated 1st February 1872, No. 203, Revenue Department.

ABSTRACT.—*Minor Proprietors.*—Proceedings Board of Revenue regarding the appointment of guardians for the management of their estates, with orders thereon.

In the concluding paragraph of this order the Board of Revenue are desired to state the various points in which the law regarding their functions as the Court of Wards is susceptible of improvement. In the opinion of the Board these points are not numerous, but they avail themselves of the opportunity of offering the following observations on some that appear to them to be important :—

2. FIRST.—*All property* charged with the direct payment of rents or revenues to Government comes within the jurisdiction of the Court of Wards in certain circumstances. When this was enacted the present state of things, when about two millions of tenants contribute directly to the Government treasury, was certainly not contemplated by the legislature. The difficulty that would otherwise arise has been got over by an order directing Collectors not to report any but cases of Zemindari property, except where they conceive that the interests of the incapacitated proprietor would be jeopardized by the omission. The Regulation expressly provides that the sanction of

Section 2. Government is required in each case to enable the Court of Wards to act at all; it is therefore perhaps competent to Government to make the order mentioned, but it is a question whether it would not be preferable to exclude all properties under a certain value from the Court's jurisdiction, once for all, by specific legislation. Practically it is only the upper and affluent classes whose heirs require this kind of protection. At all events it appears highly expedient to repeal Clause I., Section 2, Regulation X. of 1831, under which the property of minors not taken under the Court of Wards, though subject to their jurisdiction, cannot be sold during their minority for arrears of revenue accruing during such minority. It is optional, as already noted, for the Court to intervene at all, and where they do undertake the management of an estate all arrears of revenue which have accrued during their management are remitted; they are not recoverable from the disqualified proprietor himself or from his lands after his disqualification has ceased. The propriety of this is evident, but there is nothing to commend the other concession.

3. SECONDLY.—The property must devolve by inheritance. A wealthy Zemindar dies childless: two or three years afterwards his widow makes a valid adoption to him: the boy selected becomes instantly on completion of the rite the minor Zemindar. It is important to the public interests that he should not be brought up in ignorance and dissipation, as the chances are that he will be if the Court of Wards do not intervene. Yet can he be said to succeed to the property

*Proceedings of the Madras Government, Revenue Department,
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by inheritance? It may be said perhaps that he does on the ground that by the theory of the Hindu Law the son adopted is *quasi*-begotten by the adoptive father. If so, *cadit questio*; it is obvious, however, that there are other ways of coming into a property besides inheriting it; and where the party benefited is absolutely incapacitated by minority or, *prima facie*, by sex, power should be given to apply the Regulation, if the Government decide that a proper case has been made out for it. In the case of a *lunatic* the Board observe that the law now provides for the management by the Court of Wards of the estate if the Court elect to under-

Act XXXV. of 1858.

by the law in force in the Presidency. So also as regards the landed property of a

Act XXXIV. of 1858.

erty is situate beyond the limits of the Presidency Town, except that the words 'or any part of it' do not occur.

4. THIRDLY.—Considerable time necessarily elapses before the Court of Section 3, Clause I., Regulation V. of 1804. Wards can move in cases subject to their jurisdiction. The Collector is to submit a report "describing all the circumstances of the case;" this is passed on by the Board with their opinion to Government, whose orders must be awaited before anything is done. In the meantime, it is to be feared, many irregularities take place. The Collector should have full power to take temporary charge of the whole of the property, to make inventories, call for accounts, examine witnesses on oath, etc., etc. On a recent occasion it was found that the heads of the family, after pretending to give the Collector every information, had concealed the existence of a large stock of gold coins. It is not supposed that they intended to "loot" it; but they reserved it as a fund to supply the minor and his brothers with the means for illicit extravagance and debauchery, with the ultimate view of trading upon the gratitude of the boys for the opportunities thus obtained.

5. FOURTHLY.—The provisions which require that the Court of Wards shall Section 8, Clause IV.
Section 19, Clause I. submit the question for the decision of Government when they see reason to reject the Collector's recommendation for the appointment of his nominee to be manager or guardian should be rescinded. It is obsolete in practice, and seems incompatible with the relative positions of the differing authorities and with the spirit of the Regulation.

6. FIFTHLY.—Section 20.—It often happens that the same person is sole proprietor of one estate, and joint proprietor of (not merely a co-parcener with kinsmen in) another estate, whereof the assessment is undivided. When such a person's property comes into the possession of an incapacitated party provision should be made for superintendence by the Court of Wards over the whole property of the incapacitated party; and in any case where they may decline to exercise their jurisdiction it should be lawful for, and incumbent on the Civil Court in nominating a guardian under Section 20, to extend his powers to the management of the estate, which is *prima facie* subject to the Court of Wards.

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4th March 1873.*

7. SIXTHLY.—As portions of the same estate sometimes lie in two or more districts—of which the Calastry and Vizianagram Zemindaris are examples—it should be enacted that the Collector of the district in which the principal portion may be situated is "the Collector" of the Regulations and Acts concerned.

No. 27.

ORDER THEREON, 4th March 1873, No. 254.

Miscellaneous.

THE Governor in Council approves generally of the suggestions here made for the consolidation and amendment of

the law relating to the functions of the Board of Revenue as Court of Wards; and the Advocate-General, in reply to a demi-official letter from the Secretary, having expressed his willingness to prepare a Bill for the purpose, these papers will now be referred to the Legislative Department in view to the Bill being drafted in communication with the Members of Government.

(True Extract.)

(Signed)

D. F. CARMICHAEL,

Secretary to Government.

To the Legislative Department.
,, the Board of Revenue.

Exd. F. R. Bantleman.

233-92
265-92
29.6.94

to Mr 22 July 1908

Law relating to Court of Wards. - Suggestions of the Board of Revenue in their capacity of Court of Wards for the consolidation and amendment approved, and papers forwarded to the Legislative Department in view to the Bill being drafted.

NO. 2627.

REVENUE.
THE LEGISLATIVE DEPARTMENT.
Secy, Secy, Secy.
G.O. 4th March 1873, No. 264.
1st March 1873.

orders requested

All these suggestions will be considered in conference with the Administrator General, as proposed by Mr. J. S. -

[Signature]

See G.O. 22/5/71 No 900, into notes in original draft by Mr. J. S. & members of Council.

Prop Bd Rev. No 369
dy 23-2-72

The Bd being asked today what changes are desirable in the law regulating their functions as the Court of Wards, discuss the subject under six heads.

First head. (a)

It is now by law incumbent upon a Colr to report to Govt every instance where property charged with the direct payment of rent or revenue to Govt comes into the hands of a person incapacitated by sex, nonage or lunacy; and the Govt are then to determine whether such property shall be placed under the management of the Bd of Revenue as C^t of Wards.

There being 2,300,000 Ryots paying directly to Govt, the law prescribes what is unproprio. It was discussed on a former occasion what remedy was best, & it was decided to circumvent the law by a departmental Order directing Colrs to report only - except in very special circumstances - in cases of land held on Zamindari tenure. The Bd now suggest that it

"is preferable to exclude all
"properties under a certain value
"from the Court's jurisdiction once for
"all, by specific legislation"

h) under his first head, he next proposes
to repeal so much of the law, as declares
that when a minor inherits an estate
the Ct. of Wards do not intervene, yet
nevertheless the estate shall not be sold
during the heir's minority for any arrears
of revenue which may accrue during such
minority. Of course where the Ct. of Wards
do intervene & are not successful in their
management, the law being properly
wiped off altogether any arrears due to
Govt. on the minor coming of age, but in
"the other conception the Bd. see nothing to
"commend."

I see the Late Secretary, in a pencil note
on the Bd's Pro, suggests that where the
Court of Wards can intervene & do it,
the Minor ought not to suffer. There is
force in this, and I observe that on this
point our Reg. follows the Bengal
Reg. 6 of 1822, Sec. 4. However, if this is
retained, we must circumscribe the limits
of the Court's jurisdiction. Out of the many
millions of our tenants 'in capite', some
hundreds of thousands must die every year
leaving minor heirs, & if the estates are not
to be sold in case of arrears till the minors
come of age, our revenue may show a very
unpleasant falling off for the time.

Mr. H. The
Secy
Sd.

Sd.

Yes
Sd.

This seems the best
arrangement & will
save time & trouble

Second head. Shall the law be extended
to cases where the incapacitated person
comes into the property, otherwise known by
inheritance? There can be no objection:
it is permitted by the Bengal Code. Please
observe that as it is only when a minor
inherits an estate that his defaulting
is treated with special indulgence, there
will be no room for any sham transfers
to minor sons, adopted sons & the like.

Third & fourth heads - the suggestions
appear to be useful. The case alluded to
under 'thirdly' is the Arin Jagir, taken
under the Court last year.

Fifth head. The object of this proposal
is to place under one administration
the whole property of an incapacitated
person. In the case put, which might
constantly occur, this will be impossible,
the supervision both of the Ct. of Wards on
one side, & of the District Judge on the other
being limited to some description of property.

Sixth head. the suggestion will operate a
difficulty

2. I find it is the practice of the Office, when
the Bd. propose legislation & the Govt.
approve it, to remit the papers to the Bd.
with instructions to draft a Bill. This
is not a duty in which the Bd. need be ex-
pert & it causes delay - May this not be
sent, when passed into a G.O., to the Legislative
Dept. when the Bd. of the Council or the

advocate Genl on the Member of the
1st who is now a Member of the
Legislative Council, with the
males in hand?

19-11-7

alteration of entire bonds
in the law regarding functions
of the Court of Chancery

N^o 254

4: March / 73.

Read Prop. Nat Revenue

9. d. 7. L. 270. 0. 69

62

It is useless for the land

It is useless for the land
to prescribe what it is in the
for the execution to be performed
when they of 1804 was enacted
it was intended that it should be
tenure should be universally
introduced hence the best of the
of the King in the new law all
estates held in fee simple during
tenure should of course be in-
cluded - and I think the other
estates paying a certain amount

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lands;
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26/2/73

Sent to H. R. the 19: 7/3/73 R 24: 7/3/73
C 20: 20/7/73 R 17: 7/3/73

of course direct to put. I should
be disposed to fix this at the
500. per acre: I doubt, though, if
this would involve an enormously
large number of broken trees - and
it is desirable to afford an ample
protection as he can. As regards
estates under the act some must
be set aside other the one land I
think some protection should
be afforded by the State - but
it is difficult to say how this
can be done. Politically an American
in the laws governing relations with the

next friend or a Real Officer not being
a Tax collector to bring any case
before in person to a Minor in court
is reasonably to be expected to
the notice of the Court and on the
the Court to submit a report to
himself (with the file) would be
the most practical method. The
Auditor could advise as to
points from his knowledge of what
is provided in such cases by
the laws of other countries - It seems
to me that some law is other the
State should take care of these
and cannot take care of them
Silvers. and not limit its inter-

Alteration of act

position to enter in which it is situated
I have made some alterations
the L. G. M. & J. M. & J. M.
I would suggest that the
Advocate Genl should be asked
privately whether he will undertake
to be the basis a bill for C. M.
His duty and amending the
law relating to Unions. If he fails,
he may let confer with him and
come to an understanding as to
the scope of the bill - leaving all details
to be settled in Council. The new law
should include the Act for the
Education of Unions.
J. M. & J. M. & J. M.

No. 254 4: March/73.
Read Prop. Bd Revenue
23^d Feb 73 No 369

The G. M. C. approves generally
of the suggestions here made for the
consolidation & amendment of
the Law relating to the functions
of the Bd of Rev, as Courts of Wards;
and the Advocate Genl, in reply to a
semi official letter from the Secy, having
expressed his willingness to prepare
a Bill for the purpose, these papers
will now be referred to the Legislative
Dept in view to the Bill being
drafted in communication with
the Members of Govt.

J. M.

26/2/73

5 - To the Legislative Dept Des 5 March
14 - The Board of Revenue 5

255
14
*Proceedings of the Madras Government, Revenue Department,
4th March 1873.*

No. 28. Read the following Proceedings of the Board of Revenue, dated 17th February 1873, No. 224:—

Read the following letter from C. T. LONGLEY, Esq., Collector of Salem, to the Secretary to the Board of Revenue, dated 1st October 1872, No. 253:—

WITH reference to the Board's Proceedings of the 18th December last, No. 4,602, I have the honour to enclose the form of the Sanad to be issued to the Poligar of Shulagherri in the Oosoor taluq, duly filled up.

2. The peishcush of the Polliput is Rupees 4,818-4-7. This does not include the quit-rents on Inam lands and villages, as the particulars under that head cannot now be ascertained, owing to there being still some cases unsettled by the Commissioner.

3. The monthly instalments are at present paid according to the enclosed kistbundy. I shall endeavour to obtain the consent of the Poligar to a kistbundy beginning with November and ending with May, so as to secure uniformity throughout the district.

4. I have excluded the Gramabusti, Porumboke (village site land) in paragraph 2 of the Sanad. To this the Poligar objects; and I enclose his petition for the Board's orders. When mutas were formed in this district, all porumboke of the kind in question was deducted from the assets on which the peishcush was fixed. I acted on this principle in excluding the porumboke from the form of the proposed Sanad. Of course the Polliputs in this district were never permanently settled; but now that the Government is going to do so, it is for the Board's consideration whether or not the Poligar's right to village site lands not be restricted.

5. The Poligar has been made to understand that the Government have declined to grant him a "Khilat" with the Sanad.

6. A list of the villages forming the Polliput is enclosed.

—
ENCLOSURE No. 1.—Petition.

—
ENCLOSURE No. 2.—Printed form of Sanad.

—
ENCLOSURES Nos. 3 and 4.—Lists.

A SANAD in the printed form will be submitted to Government for the signature and seal of the Governor in Council.

2. The two alterations proposed by the Collector do not commend themselves to the Board.

3. There is no ground for declaring village sites in a Zemindari the property of Government. They are the property of the community though the distribution of house sites rests with the Zemindar. In this case the Zemindar's rights are specially entitled to respect because Shulagherri has been the residence of his

1st March 73 R3d March