M.R.O. 1—77,006—8-6-37.

(1) Number of pages 10

(2) Date of repair 5.9.44

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Revenue. **DEPARTMENT.**

G.O. No. 260 Press ~~Mis.~~

Book No. 39-40.

Dated 5-3- 1873.

Not to be folded or roughly handled

No. 39. Read the following letter from the Acting Government Solicitor, Madras, to the Secretary to Government, Fort St. George, dated Madras, 21st February 1873, No. 88:—

I HAVE the honour to acknowledge the receipt of the Order of Government, dated 6th instant, No. 153, Revenue Department, together with its enclosures, requesting the Advocate-General's opinion relative to the recovery of arrears of revenue due by Zemindars holding Istimrar Sanads.

2. I submitted the matter for the consideration of the Advocate-General, and I now forward herewith a copy of his Opinion.

OPINION.

I AM of opinion that the proper interpretation to put upon the terms of paragraphs 5 and 6 of the Sanad referred to in paragraph 2 of Mr. Longley's letter (25th November 1872) to the Board is that in case of default the Zemindar's personal property will be liable to attachment and sale, and that should the sum necessary to defray the attachment not be so realized the lands will be similarly liable to attachment and sale.

2. As pointed out by the Board in paragraph 3 of their note the attachment of the personal property becomes a meaningless ceremony, if it cannot, as Mr. Longley supposes, be followed by a sale.

3. Section 6 of Regulation XXVII. of 1802 is not very distinctly expressed and seems to suggest that the land is first to be proceeded against, with an option to the Zemindar to yield up his personal property if he prefers it; but the terms of the Sanad are less open to doubt, and seem to me to indicate with sufficient distinctness that the personal property will be dealt with first, and failing that, the lands; otherwise the word "*ultimately*" becomes meaningless.

4 I think therefore that in the case of a Zemindar holding under a Sanad-i-Milkeat Istimrar being in arrears his personal property should first be sold, and then, if the arrear is unliquidated, the land.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

20th February 1873.

No. 40. ORDER THEREON, 5th March 1873, No. 260.

Miscellaneous.

COMMUNICATED to the Board of Revenue, with reference to G. O., 6th February 1873, No. 153.

(True Extract.)

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

To the Board of Revenue.
,, the Government Solicitor.

Exd. F. R. Bantleman.

Govt. of [1873] Madras
REVENUE.
To
THE BOARD OF REVENUE
&c., &c.,
Dated March 5th.
Recd.
Encl.
G. O., 5th March 1873, No. 320.
MARCH.
Nos. 39-40.
Revenue due by Zemindars holding Istimrar Sanads.—Letter from the Acting Government Solicitor forwarding copy of the Advocate-General's opinion relative to the recovery of arrears of Revenue due by Zemindars holding Istimrar Sanads, communicated to the Board of Revenue.

21/10/1873

MADRAS

No. 88.-

Madras, 21st February 1873.

From

Ernest Barclay
Actg. Government Solicitor,
Madras.

To

D. F. Carmichael Esqre.
Secretary to Government,
Fort St. George,

Sir,

1. I have the honor to acknowledge the receipt of the Order of Government dated 6th instant, No. 153, Revenue Department, together with its enclosures, requesting the Advocate General's opinion relative to the recovery of arrears of Revenue due by Zemindars holding Istimrar Sanads.

2. I submitted the matter for the consideration of the Advocate General, and

3. I now forward herewith a copy of his opinion.

I have the honor to be,
Sir,
Your most Obedient Servant,

Ernest Barclay

Actg. Government Solicitor.

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5V

Opinion.

1. I am of opinion that the proper interpretation to put upon the terms of Paras: 5 and 6 of the Summd referred to in para: 2 of Mr. Longley's letter (25. 11. 72) to the Board, is that in case of default, the Zemindar's personal property will be liable to attachment and sale, and that, should the sum necessary to defray the attachment, not be so realized, the lands will be similarly liable to attachment and sale.

2. As pointed out by the Board in para: 3 of their note, the attachment of the personal property becomes a meaningless ceremony, if it cannot, as Mr. Longley supposes, be followed by a sale.

3. Section 6 of Regulation 27 of 1802 is not very distinctly expressed, and seems to suggest that the land is first to be proceeded against with an option to the Zemindar to yield up his personal property if he prefers it: but the terms of the Summd are less open to doubt, and seem to me to indicate

with

with sufficient distinctness that the personal property will be dealt with first and, failing that, the lands: otherwise the word "ultimately" becomes meaningless.

4. I think therefore that in the case of a Zemindar holding under a Sanad-i-Milkeat Istimrar being in arrears, his personal property should first be sold, and then if the arrear is unliquidated, the land.-

/Signed/ W. S. Cunningham
Addl. Govt. Sol.
20-2-/73.

/True Copy/
Ernest Wardley
Actg. Government Solicitor.-

4-C. 6 July/73 Nos 40-41

Revenue- 1873. Oct.
8. 578.

From
The Actg. Govt. Solicitor
Madras.

To
The Secretary to Govt.
Fort St. George

Dated 21st February
Read 24th February

No. 88.

Enclosure 1.

Forwards copy of the advocate General's opinion relative to the recovery of arrears of Revenue due by Zemindars holding Inam lands.—

W. 260.

Communicated to the Board of Revenue with reference to G. O. 6th February 1873. No 153

Rl. 5 Encls

14- Sd. Board of Revenue Dec. 6 Govt
4- Sd. Govt Solicitor

Nos. 39-40

C. 21: Feb/73 R 1st March