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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

REV. DEPARTMENT

G.O. No.

26

Press

B.P. No.

Mis.

Dated

6-1

1873
-196Not to be folded or roughly handled

Minute by 1st Member on letter
from the collector of Tinnevely dated
1st August 1872 N^o 335, and draft Pro-
ceedings proposed by Ag. 3rd Member.

I have read both these papers
with attention; the Collector's letter
is written to explain his statements
regarding the relations between
Landlord and tenant in Tinnevely
since the promulgation of Act ~~VIII~~
of 1865, and he now instances seven
estates in which the tenantry, a
numerous and turbulent body, have
for some years successfully evaded pay-
ment of rent and execution of Muckie-
has, removing the crops forcibly, and
proceeding in some instances to violence
and in one case to murder. It
appears that the Landlords were slow
to act up to the requirements of the
Law at the outset, and that extensive
combination on the part of the tenantry
has

has made subsequent litigation formi-
-dable; on the other hand the induce-
-ment to put the Act in force is
lessened by the fact that a successful
suit under it only secures to the Land-
-lord the current year's demand,
leaving him to recover other arrears
by suit in the Civil Court; by the
knowledge that if the defaulter chooses
to spend his Landlord's dues in appeal-
-ing, execution will meanwhile be stayed,
and in the end there will be nothing
left to recover, and probably by the
knowledge that with the disappearance
of the crop the probability of recovering
the rent is very small.

There is quite enough in these facts
to account for unwillingness to sue
on the part of the Tinnivelly Land-
-lords, especially in cases where, advanced
age, sickness or family trouble are
added to other indisposing causes, and
the

is it possible to
have a special
law to meet such
cases?

What more is
required?
"desa mon"
dormientibus
ad regulantibus
debit remedium

Not much perhaps
as Govt. might take
them all round, a game
law for one, for as more
land is cultivated more law
be got out.

the conclusion necessarily follows that
the procedure under the Act, however
perfect its provisions may be in the
case of sagacious and energetic Land-
-lords dealing with a reasonable and
loyal tenantry, does not protect the
ordinary Zemindar of Tinnivelly in
the maintenance of his rights over
pamper Maraver tenants, subject
to payment of rents in kind, and
who eagerly combine to defy the Law.
The Act in Tinnivelly under these con-
-ditions is much in the position of
a railway locomotive in a ploughed
field, and the Collector is perfectly
borne out in his conclusion that some
changes are needed to adapt it to
the conditions of those whom it affects.
The remedies he proposes are—
1st To make the Act summary,
or in other words to make the Collector's
decision

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the

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what more is
required?
"des non
dormientibus
sed vigilantibus
debitum remedium"

what more is
required?
as for rights to be
taken all round, a year
does not pass as more
than a year and a half
in fact.

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-lords dealing with a reasonable and
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1st To make the Act summary,
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decision final. It is hard to see why this should not have been the arrangement from the outset; the officer who is empowered to determine in the first instance what is or is not a fair rental for land, may safely be trusted to adjudicate a claim for a single year's rent, which in most cases is less than the sum on which a small cause court judge gives judgment without appeal. In fact Moonsiffs having Small Cause Court jurisdiction up to 50 rupees might dispose of any of the cases now in question without appeal, and it is an anomaly that the collector, an officer of higher qualification should not be able to do as much. It may be said that practically appeals are rare, but this is another reason for denying them altogether and removing the uncertainty attendant on an appealable

the is not, i.e.
here is an appeal

is not all right
where he questions is
whether he proposed
rent or not, where
he has been before and
on what he proposed
rent.



appealable decision.

2nd Mr. Puckle proposes that a single decision should hold good for subsequent years if the conditions are unchanged. I think it would be impossible to work such a clause.

3rd His third suggestion is that a landlord should be entitled to sue a body of tenants on one plaintiff if the issues are precisely similar; I see no objection to this provided the defendants all reside in one village, so that notice by tom-tom and by an affix on the village choultry or other public place may reach them all.

4th He proposes to make a money rent compulsory, leaving the commutation from the grain demand to the collector and his Divisional officers. This change is inevitable in course of time and should be at once

But not many
case is separate
there is no joint
tenancy

once brought about in the interest of
ryots as well as landlords.

5th & lastly - he would relieve liti-
gation by calculating the stamp on
the actual value of the rental in
arrear and not on the tenant's entire
holding. I approve this proposal
also as only equitable.

+ but you say
supra that if the
crop is once taken
off the ground,
there is no security
for the rent, left
it is time enough &

The Act here mentions
"the" - they have asked
for illustrations & ex-
amples of the hardship

all, the rent and
the tenant -

The third Member in his remarks
on the Collector's letter points out
that Mr. Puckle is mistaken in
thinking that the difficulties of
which he complains are due to
Act VIII of 1845 rather than to the
law as it has stood in the main
for a long time past; he meets
the objection regarding arrears by
pointing to the Civil Courts; in
respect of appeal and special ap-
= peal, the advantage seems to him
to be with the Landlord as having
the longest purse, and if the tenant
proves

proves to be a pauper, he considers that
power of ejection gives the Landlord
a sufficient remedy; the wholesale
removal of crops he would meet by
the action of the collector, who is
empowered to demand security from
tenants before a crop is removed,
and failing such security to have
it cut and to give the Landlord
the equivalent of his rent.

The third Member adds that he
considers the Law to be quite suf-
ficient, very simple and very
summary, and that the Timorously
landlords are to blame for their
failure to appreciate and use it
efficiently for their own protection;
he disapproves of Mr. Puckle's
proposed amendments.

In considering these remarks I think
it is a matter of little importance
that

that Mr. Puckle should attribute to the existing law consequences which might be traced to previous enactments, seeing that the imperfections and defects which he notices have been reproduced in Act VIII of 1865. Now can I find any consolation in the fact that the civil courts are open to landlords whose tenants have successfully evaded payment for more than one year; the delay in getting tenants before the collector within the year may arise from causes beyond a landlord's control, and in such cases the collector's decree should cover the arrears for the previous year also. I am also quite unable to see that if a case goes on to appeal and special appeal, the landlord is advantaged, seeing that his claim to his yearly income

Well, it should be hardly
 & the consequences of any act
 at the moment.

This is sad confusion
 The Collector does not understand
 the law for tenants.
 If the parties can't agree
 to terms, he can on the matter
 & then, decide what is right.
 If the tenant is anti the whole,
 & if he tenant default, the
 Collector can authorize the
 to destroy the crops. If on
 3 years' rent is due, the Collector
 must be applied to & he will
 much more favorable to the
 landlord, inasmuch as
 execution under a Collector's
 decree is much more sweeping
 than he disposes a Collector can
 authorize.

I said the landlord - the
 man of the long or piece -
 has the best chance & he
 best position in any English
 red tape system. The advantage
 is relative not absolute.

income is in abeyance perhaps till the third year, and then his default is a panper! The Third Member says "eject him," but there is the land to be tilled and no one else at hand to do it; for new tenants are not always procurable at short notice. The suggestion that removal of crops should be checked by the authorized remedy described above is quite impracticable when it is necessary to apply that remedy to the entire tenantry of half a dozen large estates; we have not the agency to carry out such measures even in half a dozen individual instances occurring simultaneously and in different quarters. So long as an appeal and special appeal can lie against the collector's decree

was a pauper
 & within the
 king's habeas
 corpus act, & yet
 & of course,

but that I will
 not in the world
 least be blamed
 a landlord, fighting
 all his battles
 & the position
 is not tolerable.
 I don't think
 that we have
 a proof that the
 has not gone on
 among the
 large tenants of
 the.

decree, I am unable to see how the
 Law can be pronounced to be very
 summary, and with the story of
 these seven estates, with pauperised
 landlords and disorganised tenantry
 before me, I cannot feel that
 Act VIII of 1865 is as well adapted
 as it might be and ought to be
 to the circumstances of the country
 and the character of the population.
 Indian Legislatures are not justified
 in assuming on behalf of the
 agricultural classes, an amount
 of energy and sagacity sufficient
 to work with success, under such
 conditions as Mr. Puckle describes
 to us; an Act which may be well
 enough adapted to run smoothly
 in civilized and orderly com-

= minutes

It is the same in
 every other case, where
 the rights of parties have
 not been definitely mutually
 agreed.

I suspect the following
 account, because he said
 nothing about it, except
 quite obiter, when
 writing on another subject

at all events this
 is impossible because
 Act as we have always
 had - & have have been the
 complaints from other
 districts.

minutes.

C. O. Fiske

Trust Member


 C. O. Fiske

REVENUE BOARD OFFICE,
Madras,
Dated 2nd Nov^r 1872.

No. 1471
OFFICIAL MEMORANDUM.

With reference to his Memo-
randum dated 18 November
1872 No 104 the undersigned
has the honor to forward to the
Under Secretary to Government
Revenue Department the minute
of dissent of the First Member
of the Board therein called for

(By order)

H E Stokes
Acting Sub Secretary

The Under Secretary to Government
Revenue Department
with the Enclosure

Copied to Mr. Mayagun

6 January 73
Memo No 26

Rev. 3747/72

25/6/01
27/2/01

Perman 1872 Oth
No. 22-11-1
H. H. 3747

OFFICIAL MEMORANDUM.

From

The Sub-Secretary to the
Board of Revenue,

To

The Collector of
Muckdoot
to send Rs 20

Dated 20/10/01
Received 22/10/01

Revenue 1872

No.

Forwarding the
First Member's Minute
of dissent
to the
Lodged
18-10-1872

25/6/01
27/2/01