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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 355

Press
~~Mis.~~

229-30

Dated 22-3-1873.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
22nd March 1873.*

No. 229. Read the following Proceedings of the Board of Revenue, dated 22nd November 1871, No. 4,814:—

Read the following Proceedings of the Madras Government, dated 1st July 1871, No. 1,141, Revenue Department:—

ABSTRACT.—*Certain Villages of Kannivady Polliem in Madura District alienated by Decree of Civil Court.*—Proceedings Board of Revenue in connection with them, with orders thereon.

IN his letter of the 29th April last, No. 124, the Collector of Madura reported the attachment and sale by the Civil Court in satisfaction of the debts of the proprietor of three villages belonging to Kannivady, an unsettled Polliem; and stated that he “proposed to issue orders for the imposition of full ryotwary assessment on the said villages being placed in the purchaser’s possession.” On this the

Board observed that pending further instructions no such action should be taken by the Collector; the recent decision of the High Court in the Marangapury case having materially affected the rights which have hitherto been claimed by Government with regard to unsettled Polliems.

2. These papers being laid before Government the Governor in Council called the attention of the Board to the

* “We wish it to be distinctly understood that it is not intended by anything said in this judgment to indicate any opinion as to the right of Government to alter the assessments of *peishcush* on this or other Polliems not held under an *Istimani Sanad*, if they think it equitable to do so, and have not bound themselves not to do so—an obligation which, it seems from Exhibit 23, does in some instances exist.”

concluding paragraph of the High Court’s judgment* in the case cited, directing the Board to dispose of the Collector’s letter with due advertence to the same. It was added that, even if found not liable to the ordinary ryotwary assessment, the villages might at

all events be re-assessed on the principle laid down in Section 9, Regulation XXV. of 1802, for alienations in satisfaction of a decree of Court.

3. The Board have procured a copy of the Exhibit mentioned in the judgment, but it has no bearing on the subject in hand; there is probably some mistake about the number of the Exhibit. However, there is no doubt that there are cases—notably the Chittoor Polliems—where the Poligars were publicly assured that their *peishcush* should never be raised, as there are others where, though no such assurance was given, it would be inequitable to raise the amount which was calculated with the view and intention of declaring it unalterable; the non-delivery of the usual *Zemindari Sanad* being attributable to accident only

Board’s Proceedings, 14th January 1863, No. 210.
Government Order, 10th November 1865, No. 2,730.

or oversight. All these cases are fully discussed in the correspondence marginally noted, but the Polliem of Kannivady does not belong to either category.

4. When the province of Dindigul was ceded to the British Government in 1792 by the Sultan of Mysore it contained, besides certain Government (*Ayen*) lands, twenty-six Polliems. In twelve of these the principle of the permanent settlement was carried out by Mr. Hurdis; in the remaining fourteen, of which

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22nd March 1873.*

Kannivady is one, it was not. Mr. Hurdis settled with the proprietors of these last for Fasli 1213 only. The rate has remained unchanged, but the public demand was never definitely fixed in perpetuity; and on occurrence of an arrear the Collector, in lieu of holding the Poligar responsible in his property and person (as would have been the proper course with an Istimrari estate), was directed to take the lands under his own management, allotting the Poligar a Malikana of 10 per cent. on the net receipts.

5. This process was applied for a period of twenty-five years, or from 1817 to 1842, to Kannivady, when, on payment of all outstandings, the estate was restored to the Poligar. During his management the Collector had found it necessary to assess the ryots at considerably reduced rates, which it was intended

Vide Clause ii., Section XI., Madras Act VIII. of 1865.

the Poligar should hereafter adopt; but in the absence of any express covenant to do so he has been allowed by

the Courts to demand the rates set down in the accounts of Fasli 1213. In this state of things, and on the ground of its being expedient to raise the peishcush

which is now Rs. 38,140, whilst the annual income is Rs. 88,000, the Board have already expressed their opinion,

G. O., 3rd March 1869, No. 540.
G. O., 13th Oct. " " 2,781.

to which the Government were pleased to assent, that no Sanad should be issued until the next lapse occurs.

6. The above being the history of the Polliem the Board return to the subject of the Government Order recorded at the head of these Proceedings. It is, first of all, to be observed that though by the Regulation cited all alienations by sale, gift, or otherwise, are capable of being separately assessed to the public revenue, yet that this would seem to be a procedure which the Collector, *as the law now stands*, cannot apply in the present case of his own motion. It appears to the Board (but they would be glad to see the question submitted for the opinion of the Advocate-General) that both parties must join in petitioning the Collector for a division, or a division must be decreed by the Courts at the suit of one of the parties, before the Collector can interfere for the purpose of making it. Under the old law (Regulation XXVI. of 1802), when there was occasion to resort to the sale of such lands, whether for arrears of revenue or "in consequence of decrees obtained in the Courts of Adawlut," it was the function of the Collector, whose duties in the matter are more particularly described in Sections 16 *et. seq.* (never yet formally rescinded) of Regulation II. of 1803, to carry out the business in the one case as well as in the other; and in both cases the portion of the estate sold was to be divided off into a *separately assessed* estate. But Act X. of 1861 (Imperial) has repealed Regulation XXVI. of 1802 so far as the execution of decrees of Courts was prescribed by it. The Courts now execute their own decrees, unless a division of an estate is distinctly ordered, when it "shall be made by the Collector under the orders of the Court according to the rules in force for the partition of an estate paying revenue to Government," Section 225, Code of Civil Procedure. These rules are now to be found in Section 45, Madras Act II. of 1864, and they effectually dispose of the Collector's suggestion to fix the full ryotwary assessment on the holder of these villages.

*Proceedings of the Madras Government, Revenue Department,
22nd March 1873.*

7. The Poligar is deeply involved, and it may very possibly be found necessary to bring the estate, or a portion of it, to sale for arrears of revenue, in which case the Collector should receive orders to buy it in; but any how no detriment whatever can arise to the State, the revenue demand being of course always secured, whatever alienations may be made. It would be inequitable to engage the present Poligar to any new conditions; but on a succession no such objection would arise. The High Court have ruled that an unsettled Polliem is an ancestral proprietary estate, but that the peishcush may be raised in certain cases, and the Board have shown that there is no impediment to its being raised in Kannivady. The next Poligar therefore should be required to come to distinct terms with the Government, and, whether his peishcush is enhanced or not, he should covenant, in consideration of its being *fixed* in perpetuity, to let the ryots hold at the reduced rates referred to in paragraph 5 above; the penalty for a breach being the revocation of the Sanad Istimrar. It is not to be supposed he will hesitate in acceding to these terms when the possible alternative, a peishcush fixed at, say, 95 per cent. of the assets of the estate, is presented to his view.

8. As to the purchaser of these three villages he has bought the "right, title, and interest," of the judgment debtor only. When the succession to the Polliem takes place and the new Poligar has obtained his Sanad it will be for him to assail or not, as he may be advised, the possession of their present holder. If he finds the purchaser's title unassailable he will naturally take measures to saddle him with the due proportion of the peishcush fixed on the entire estate. And should these three villages be thus divided off into a separate estate no means occur to the Board for prohibiting the proprietor from levying the old survey rates from his ryots. It is obvious that the Government have no means of driving a bargain with him on behalf of his tenants, as they will have no discretion in fixing the amount of his peishcush, but must allot the proportion prescribed by the law in such cases.

No. 230. ORDER THEREON, 22nd March 1873, No. 355.

Miscellaneous.

THE Board will ascertain and report whether the debt for which these villages were sold by the Civil Court is a charge against the estate or not, and therefore binding on the successors to the Polliem.

(True Extract.)

(Signed) W. HUDLESTON,
Chief Secretary.

To the Board of Revenue.

Exd. F. R. Bantleman.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 22nd November 1871.

Read the following Proceedings of the Madras Government, dated 1st July 1871, No. 1,141, Revenue Department:—

ABSTRACT.—*Certain villages of Kannivady Polliem, in Madura District, alienated by decree of Civil Court.*—Proceedings Board of Revenue in connection with them, with orders thereon.

In his letter of the 29th April last, No. 124, the Collector of Madura reported the attachment and sale by the Civil Court, in satisfaction of the debts of the Proprietor, of three villages belonging to Kannivady, an unsettled Polliem; and stated that he “proposed to issue orders for the imposition of full ryotwary assessment on the said villages being placed in the purchaser’s possession.” On this the Board observed that pending further instructions, no such action should be taken by the Collector, the recent decision of the High Court in the Marangapury case having materially affected the rights which have hitherto been claimed by Government with regard to unsettled polliems.

Proceedings, 7th June 1871, No. 1,373.

2. These papers being laid before Government, the Governor in Council called the attention of the Board to the concluding paragraph of the High Court’s judgment* in the case cited, directing the Board to dispose of the Collector’s letter with due advertence to the same. It was added that, even if found not liable to the ordinary ryotwary assessment the villages might at all events be re-assessed on the principle laid down in Section 9, Regulation XXV. of 1802, for alienations in satisfaction of a decree of Court.

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3. The Board have procured a copy of the exhibit mentioned in the judgment, but it has no bearing on the subject in hand; there is probably some mistake about the number of the exhibit. However there is no doubt that there are cases—notably the Chittoor polliems—where the Poligars were publicly assured that their *peishcush* should never be raised; as there are others, where, though no such assurance was given, it would be inequitable to raise the amount, which was calculated with the view and intention of declaring it unalterable, the non-delivery of the usual

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Government Order, 10th November 1865, No. 2,730.

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5. This process was applied for a period of twenty-five years, or from 1817 to 1842, to Kannivady; when, on payment of all outstandings, the estate was restored to the poligar. During his management the Collector had found it necessary to assess the ryots at considerably reduced rates, which it was intended the Poligar should hereafter adopt; but, in the absence of any express cove-

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should these three villages be thus divided off into a separate estate, no means occur to the Board for prohibiting the proprietor from levying the old survey rates from his ryots. It is obvious that the Government have no means of driving a bargain with him on behalf of his tenants; as they will have no discretion in fixing the amount of his peishcush, but must allot the proportion prescribed by the law in such cases.

(A true Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,
the Collector of Madura, with copy of Government Order.

Exd. G. A. Turton.

ff. 355.

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Mr. To the Boarding Room 24 May

181 July 11 No. 5-6

See next

Decemr 1871. *Chas*

Board of Revenue,

MADRAS. *H. 3843*

PROCEEDINGS, 22ND NOVEMBER 1871, NO. 4,814.

② 24/2.30 9100-111

Encl.

Received. J. D. McCombs

Ms A.9.2.6. v.22 March 1875

NOVEMBER.

No. 4,814.

Kannoddy Poligam—in Madura District.—Remarks passed on proposal of Collector to impose full rogatory assessment on certain villages, of, alienated by a decree of Civil Court for debts, and with reference to power of Government to raise Peishoun of the estate and to require Poligar to reduce rates of assessment levied by him.

Ac 229-230

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E-19: March/73 R19: March

