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Proceedings of the Madras Government, Revenue Department,

Proce *16th August* 1873.

873.

No. 131. Read the following Proceedings of Board of Revenue, dated 25th April 1873, No. rust 1

Read again Board's Proceedings dated 25th September 1872, No. 1,906.

Read also the following letter from W. M. CADELL, Esq., Officiating Political Agent, Poodoocottah, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Tanjore, 15th March 1873, No. 98.

ordered

WITH reference to the Proceedings of the Board of Revenue, dated the 25th September 1872, No. 1,906, I have the honour to forward, herewith, copy of the letter received from the Sirkele to His Excellency the Rajah of Poodoocottah, from which it will be seen that the authorities of that State are ready and willing to assist the British Government in realizing the arrears of revenue due by ryots who abscond within their territories provided that a similar practice be observed by the British Government in regard to the realization of revenue due to the Poodoocottah State.

2. There are instances on record of assistance having been asked for and reciprocally rendered by the subordinate officers of this district and those of the Poodoocottah State in regard to the realization of arrears of revenue from persons who have taken refuge in this and the Poodoocottah territories; but this practice can hardly be said to be a recognized one as I believe it has been carried on, so far at least as regards the British Government, without the knowledge of the Collector, and has further latterly fallen into desuetude, the latest instance quoted by the Sirkele dating so far back as the year 1867. The form of procedure adopted in all these cases appears to have been for the subordinate Revenue Officers of the British Government, the Deputy Tahsildar or the Tahsildar, as the case may be, to send a peon to a Tahsildar in the Poodoocottah territory with a letter asking that officer to assist him in the realization of the arrears, and, in the event of there being no property forthcoming to be attached, to forward the defaulter himself; and a similar practice would seem to have been observed by the subordinate officers of our territory. This was no doubt found possible at a time when the people were generally ignorant of their rights and of the limits to which the authorities of the Revenue Officers might extend. At the present day, while it is generally known that even persons who have committed heinous crimes in a foreign State and taken refuge in our own could not be arrested and delivered over to the authorities of that State without going through all the formalities prescribed by the Extradition Act, a revival of the former practice is sure to subject the officer acting under it to a civil action if not to a criminal prosecution. Another reason for the discontinuance of the practice is perhaps to be found in the fact that, as in all cases of land revenue due to our Government, Revenue Officers have the option of attaching and selling the land, which could always be got at even though the defaulters might take refuge in the Poodoocottah State, it has not been found necessary to call in the aid of the authorities of that State in the realization of such arrears.

3. There can be no question, however, that in regard to the realization of taxes and rates which are due to the British Government, which cannot be collected by proceeding against the landed property of the person by whom it is

payable, and who might abscond with his moveable property to the Poodoocottah territory, or when the defaulter possesses no land in British territory, the want of a definite understanding between your Government and that State is productive of considerable inconvenience as pointed by Mr. Puckle, and that it is essentially necessary that some rules should be laid down on the subject.

4. The rules as to the execution of the decrees of the British Courts in Native States and *vice versâ* are subject closely connected with the present one, are laid down in the orders of Government

27th August 1864, No. 240, communicated in G. O., dated 30th September 1865, No. 1,508.

Vide letter from Officiating Political Agent, dated 19th March 1873, No. 99.

India, marginally noted, and recently the decrees of the Courts of Poodoocottah were being executed within our territories; but, as the Civil Judge of Tanjore, Mr. Hutchins, lately refused to execute a Poodoocottah decree on the ground of its having been passed by a foreign Court not established by the British Government, the practice of executing our decrees in Poodoocottah has also been discontinued.

5. This being the practice now observed in regard to the execution of decrees, and there being no rules laid down nor a recognized usage followed with respect to the realization of arrears of revenue, I feel that I could not be justified in giving effect to Mr. Puckle's application in the matter which forms the subject of his reference to the Board.

6. The Board would observe from the tenor of the Sirkele's letter that he requires that the obligation of our Government collecting the revenue for the other should be reciprocal.

ENCLOSURE No. 1.

From BHAWANY SHUNKER ROW, Sirkele to the Rajah of Poodoocottah, to W. M. CADELL, Esq., Officiating Political Agent, Poodoocottah, dated 19th December 1872, No. 545.

WITH reference to your letter of date the 5th October 1872, No. 368, accompanied by a copy of the Proceedings of the Board of Revenue dated 25th September 1872, No. 1,906, I have the honour to inform you that on careful examination of my office and taluq records I understand that there are precedents in which arrears of revenue have been collected by the authorities of this State from British ryots who had absconded into this country since the British authorities are (as it is clear from the records) usually affording their aid in the recovery of the arrears from the defaulters of this State absconding into British territory.

2. I beg also to state that there will be no objection at all on the part of this State in collecting as usual from the defaulters the money due to Government, and to request in the meanwhile that you will be so good as to cause the custom hitherto observed on the part of the British Officers in respect to the recovery of the arrears of revenue from the defaulters of this State to be invariably kept up.

(True Copy.)

(Signed) W. M. CADELL,
Officiating Political Agent.

THESE papers will be submitted for the information of Government, but the Board do not think that sufficient cause has been shown for instituting the measures that would be necessary before reciprocity with Poodoocottah in respect to revenue defaulters could be secured.

No. 132. ORDER THEREON, 16th August 1873, No. 864.

Miscellaneous.

His Excellency the Governor in Council does not consider it desirable to take any action in this matter.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.

Exd. F. R. Bantleman.

No. 1,906.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 25th September 1872.

Read the following letter from R. K. PUCKLE, Esq., Collector of Tinnevelly, to the Secretary to the Board of Revenue, dated Courtallum, 30th August 1872, No. 396 :—

ONE P. A. Mutukarupan Chetti has left this district for Puducottah in arrears of Income-tax to the extent of Rupees 14-6-0.

2. My application to the Political Agent to levy the amount in the usual manner has been unsuccessful, as Mr. Cadell informs me that "there is no reciprocity of obligation between the State of Puducottah and the British Government in regard to the execution of decrees, and that that principle seems to apply equally to the attachment of property for the recovery of arrears of Income-tax."

3. The amount in question is trifling, but if the other Natukottei Chetties, who are closing their business here, follow the example of Mutukarupan Chetti and move to Puducottah, which is on the road to their native place, we may have much difficulty in realizing any arrears due by these wealthy traders. I, therefore, request instructions as to whether I shall proceed further in this matter or strike off the arrear as irrecoverable.

THE Political Agent will be requested to state what course is adopted when defaulting ryots abscond to Puducottah, and whether the Puducottah authorities would refuse if he applied to them to collect the money due to Government.

(A true Copy and Extract.)

(Signed) J. GROSE,
Secretary.

To the Political Agent, Tanjore.
Copy to the Collector of Tinnevelly.

Exd. T. Cartledge.

Revenue Department

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Memorandum.

Dated 25th April 1873. No. 644.

The Collector of Tinnevelly having referred for the orders of the Board of Revenue, a case in which a native merchant absconded from that District to Pudukottah without paying the income-tax due by him - the Board requested the Political Agent for that State to state what course is adopted when defaulting ryots abscond to Pudukottah, and whether the Pudukottah authorities would refuse if the Political Agent applied to them to collect the money.

2. In reply, the Offg. Political Agent forwarded to

I do not think that any further proceedings of the Board are necessary in regard to such arrangements with Pudukottah as Board's Proc: 25th April 1872 No. 1906 and Govt. letter

I do not consider the State of Pudukottah such as to warrant "rescripts" treaties with H. M. And if I did I should demand any treaty for the mutual surrender of revenue defaulters. The rules would be

Board's Proc: 25th April 1873 No. 644.

Govt. I. O. L.

to the Board copy of a letter from the Sirkele to H. E. the Rajah of Puducottah, from which it appears that the authorities of that State are ready and willing to assist the British Govt. in realizing the arrears of revenue due by ryots who absconid within their territories, provided that a similar practice be observed by the British Govt. in regard to the realization of revenue due to the Puducottah State.

3. The Board have now submitted copies of this correspondence for the information of Govt., with the intimation that they do not think that sufficient cause has been shown for instituting the measures that would be necessary before reciprocity with Puducottah in respect to Revenue defaulters could be secured.

4. As observed by the Offg Political Agent, no rules have been laid down as to the course to be followed with regard to the recovery of taxes or arrears of land revenue due to Govt by defaulters who have absconded from British territory.

5. The rules prescribed by the Govt of India, relative to the execution of the decrees of British Courts in Native States, and to which reference is made in the Offg Political Agent's letter, are recorded in the Proceedings of Govt, Judl Dept, 30th September 1868, No. 1508. They are briefly as follows:

1) In Native States where regular tribunals exist, holders of decrees obtained in British tribunals must present themselves without in any way invoking the

the aid or relying on the influence of the British representative, the question of reprocity in the execution of decrees being one which the tribunals of the representative Govts must decide.

(2) Where there are no regular tribunals, the political representative, will, as a general rule, abstain from putting any pressure on, or using his influence with the Chief of the Native State or the Durbar, in order to the execution of a decree obtained in British territory.

6. With reference to these rules, the Native States of Travancore and Cochin intimated to Govt., through the British Resident, that they were prepared to give effect to decrees of the British tribunals, provided that the decrees of the

Pro: of Govt. Jud. Dept. 29th June 1869, No. 168.

the Sudder Law Courts were reciprocally executed by the British Courts. Hereupon the Govt., referring to a rule of practice passed by the late Sudder Court - which directs that the Courts shall not decree execution of a foreign judgment as such, and that a party who wishes to enforce such a judgment within any British District must institute an action founded thereon in the proper Court of that District - requested the opinion of the High Court as to whether it might not be necessary, in order to give effect to the rules laid down by the Govt. of India, that the above rule of practice should be modified and instructions issued to the Courts, similar to those contained in the Circular of the Sudder Court dated 28th December 1829, under which, upon application being made to a Zillah Court for the enforcement of a decree passed by the proper tribunal of a Native State, nothing

nothing further was necessary, than to call upon the defendant to show cause against the decree and on his failing to do so, to proceed to the execution thereof as in the case of a decree of a British Court.

7. In reply, the Judges of the High Court informed the Govt that "without a special legislative enactment our Courts have no jurisdiction to issue process of execution for the purpose of enforcing the decrees of Courts established by the Ruling Power in Foreign States." And under this opinion of the High Court, the Govt was constrained to inform the Resident in Travancore and Cochin that the existing law does not admit of the proposed system of reciprocity as regards the execution of decrees between the British Courts and the Sirkar Law Courts.

Pro: of Govt Jud: Dept 10 Augt 1869 No 298.

8. The Govt however made a reference on the subject to the Govt of India, with the view, should it be deemed desirable, to such a legislative enactment being passed by that Govt as would give to British Courts the jurisdiction to issue process of execution for the purpose of enforcing the decrees of Courts in Native States. But the Govt of India declined to take action in the matter, on the ground that the proposed legislation would "lead to the obtaining in Native States of fraudulent decrees against residents in British India, and our Courts would become, even more than they are at present, elaborate tools in the hands of forgers, coiners and perjurers."

No ____ Dt 2d Sept: 1869 No 1458.

Pro: of Govt Jud: Dept 24 Febr: 1870 No 292.

9. This decision of the Supreme Govt was communicated to the Resident with the intimation that he should continue to be guided by the rules laid down by that Govt in regard to the execution of the decrees of British Tribunals, and should abstain from using any influence for the purpose of obtaining the execution

of such decree.

Revenue Dept.

No. 884

Pros of the Madras Govt
under date the 16th August 1873.

Read the following
Proceedings of the Bd of Revenue

Submitting to Govt with remarks certain papers from Political Agent Tanjore regarding recovery of arrears of revenue due by defaulting Govt pyots who abscond to Pondicottah. — H.E. 25 April 1873. No. 644.

His Excellency the Governor in Council does not consider it desirable to take any action in this matter.

To Bd of Revenue
Copd 25/8

Pros
Reciprocity with Pondicottah in respect to pyots' revenue defaults

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Under Sec
Under answer

List from Accts

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