No. 110. Read the following Proceedings of the Board of Revenue, dated 25th August 1873, No. 1,647 :—

Read the following letter from W. S. FOSTER, Esq., Acting Collector of the Godavery District, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Cocanada, 10th June 1873, No. 187 :—

I HAVE the honour to forward, herewith, copy of a letter from a late Head Assistant Collector of this district, dated the 29th November 1866, No. 58.

2. In 1858, one Korukonda Subba Reddi, a chief rebel in the hills in this district, was executed and all his property was confiscated. Sivagiri and Chiduru were two villages confiscated at the same time.

3. The proprietor of the Gutala Estate, which adjoins the villages, claims them as hamlets of Devipatnam, which forms a portion of his Zemindari.

4. In the earliest account of Fasli 1196, Koruturu, Sivagiri, and Chiduru were entered as paying kattubady of 12 Pagodas to "Devanam," meaning probably the Zemindar of the Polavarum Estate, in which they were then situate. Polavarum has since been broken up into several petty estates, of which Gutala is one.

5. The villages under dispute were not entered in the accounts of the Permanent Settlement, and this seems to imply that the villages did not belong to the Polavarum Zemindari, of which Gutala is but a portion.

6. Sivagiri and Chiduru are said to be hamlets of Devipatnam on the other side of the river. It is highly improbable that hamlets should be separated from their villages by a large river.

7. In 1811 the Gutala Estate was sold, and was sub-divided afterwards by its purchaser between herself and another, and in the document executed by them the two villages were entered as separate villages. Such is the evidence for Government.

8. The proprietor has filed several accounts and other documents; all form his records or his Thanedar's.

9. Subba Reddi executed in 1839 an agreement taking Devipatnam and Sivagiri and Chiduru on cowle or service tenure from the Gutala proprietor. There are other papers evidencing almost the same fact. Several accounts show that a fixed assessment of 32 Rupees was paid on Sivagiri and Chiduru by Subba Reddi to the proprietor and Rupees 160 on Devipatnam. It is admitted that the villages under dispute were long enjoyed by Subba Reddi, but, it is pleaded under the proprietor of Gutala, not of his own right.

10. The Gutala Estate was under attachment by Government for a short time from the 1st to the 19th August 1849, and, in two accounts kept at the time bearing the signature of the Zufti Amin, Rupees 32 have been entered as collected from Subba Reddi for Sivagiri and Chiduru and Rupees 160 for Devipatnam from the same individual. Mr. Wigram arrives at the conclusion that a payment of Rupees 32 a year was made to the Gutala proprietor.

11. In Fasli 1252 the two villages were entered as hamlets of Devipatnam in the sub-division accounts. This is the evidence for the proprietor.

12. The fact of these villages not having been entered in the Permanent Settlement accounts of the estate is strong evidence against the proprietor, and there is nothing to show that they were there included as hamlets of Devi-

patnam; on the other hand, the exclusion of the kattubady of Rupees 32, which Mr. Wigram finds to have been paid all along to the proprietor, and which the account of Fasli 1196 shows to have been payable thereon, favours the proprietor's argument. On the whole, the evidence for the proprietor and Government appears to be conflicting. I do not feel at all sure that the Rupees 32 entered in the accounts as payment made by Subba Reddi to the Gutala proprietor on Sivagiri and Chiduru were paid by him as rent for these villages.

13. As, however, there is a great doubt, I am willing to allow the item as kattubady, and I beg to recommend that the proprietor's title to a kattubady of 32 Rupees per annum be recognized and the amount consequently due from the year 1859 be paid to him.

14. If this proposal is sanctioned I request authority to deduct the 32 Rupees from the peishcush of the Gutala Estate.

15. The villages under dispute are annually rented out on behalf of Government and the proceeds are credited to Government.

16. Somehow Mr. Wigram's report was unnoticed in this office for some time, and Mr. Fraser thought it was unnecessary to take any steps in the matter in July 1871, when it was brought to his notice, till the parties saw fit to renew their application.

17. An extract of the entries from the several accounts produced by the proprietor is enclosed.

ENCLOSURE No. 1.

From H. WIGRAM, Esq., Acting Head Assistant Collector, in charge of the Ellore Deputy Collector's Division, to J. FRASER, Esq., Collector of the Godavery District, dated Rajahmundry, 29th November 1866, No. 58.

I HAVE the honour to report on the claims made by the proprietor of Gutala (part of the old Polavarum Zemindari) to the two villages known as the Mokhasa villages of Sivagiri and Chiduru, in the Yernagudem Taluq, which were confiscated as part of the estate of the late Korukonda Subba Reddi in September 1858.

1. Extract from the Minutes of Consultation, Judicial Department, under date the 5th January 1858, No. 11.
2. Extract from the Minutes of Consultation, Judicial Department, under date the 24th August 1858, No. 1,167.

2. For an account of the circumstances which led to the execution of Subba Reddi for rebellion and the confiscation of his property I beg to refer you to the marginally-noted papers.

3. The Gutala proprietor first preferred his claim to the two villages of Sivagiri and Chiduru on the 10th October 1858 in a petition addressed to the Collector. The matter was referred to the Sub-Collector for inquiry on the 4th June 1859. When the Yernagudem Taluq was transferred to the Deputy Collector the papers connected with the subject were sent to him, but no report has hitherto been submitted. The following is a list of petitions preferred by the Gutala proprietor from time to time, viz. :—

1	to the	Collector,	dated	10th October 1858.
1	,,	Sub-Collector,	dated	10th October 1858.
1	,,	Collector,	,,	8th December ,,
1	,,	Sub-Collector,	,,	31st July 1859.
1	,,	,,	,,	11th Sept. ,,
1	,,	,,	,,	7th October ,,
1	,,	Collector,	,,	2nd March 1862.
1	,,	,,	,,	2nd May ,,
1	,,	Deputy Collector,	,,	5th June 1865.

4. He bases his claim on the grounds that these villages were not Mokhasa villages but hamlets of Devipatnam, which belongs to his estate, and that they were leased by his predecessor to Subba Reddi on a favourable tenure on condition of his preserving the peace throughout the Zemindari villages, and that, as the service has necessarily ceased, the villages should revert to him.

5. To support his claim he has produced a mass of papers and documents which have been carefully sifted. They may be divided into the following heads :—

(1.) Documents in the form of agreements, letters, etc., which passed between the Gutala proprietor and Subba Reddi.

(2.) Original accounts, chiefly produced from the Cutcherry of the Thanedar of Gutala.

(3.) Receipts and disbursements of the Gutala Estate whilst under management from 1st to 19th August 1849.

6. I may remark at the outset that there is no allusion anywhere till 1852 to these villages being hamlets of Devipatnam, which is on the opposite side of the river, in the Kottapally Division of the Rajahmundry Taluq, and that in his own demand, collection, and balance account for Fasli 1237 the villages of Sivagiri and Chiduru are styled Mokhasa. If therefore the proprietor is to stand and fall on his own plea, I am of opinion that he has failed to make out his claim to these villages as hamlets of Devipatnam.

7. I will now proceed to give a short résumé of the principal documents relied upon by the proprietor according to the heads enumerated above.

The first, marked A, dated 25th January 1839, is an agreement made between the proprietor and Subba Reddi, by which the latter states that he has taken on lease the three villages of Devipatnam, Sivagiri, and Chiduru in lieu of some ready-money allowances hitherto given for the preservation of the peace in the Gutala Estate. Reference is made to a document (an uncertified copy of which is produced dated 23rd February 1831) by which allowances were granted for one year to Subba Reddi in consideration of his preventing disturbances of the hill people.

The next, marked B, dated 17th April 1850, is an agreement between the same parties by which the above-mentioned three villages, bearing kist of Rupees 500, were granted to Subba Reddi on an annual rent of 300 Rupees on the same conditions subject to any penalty the proprietor might choose to inflict on failure of his engagements.

Then come two agreements, marked C and D, dated 17th and 20th April 1850, executed by Subba Reddi, promising to pay within a certain time the arrears due on the villages of Devipatnam, Sivagiri, and Chiduru.

The remaining documents under the first head contain allusions to the villages of Sivagiri and Chiduru and to the kist thereon, viz., 33 Rupees, being payable to the Gutala proprietor. They are all dated prior to, or in, the year 1839, and, if genuine, clearly establish that the Gutala proprietor did receive a fixed rent for these villages from Subba Reddi ; but they throw no light on the question whether the payment was in the form of a rent service or rent charge.

8. We pass next to the accounts of the Gutala Zemindari, most of which are produced from the records of the Thanedar of Gutala.

The first bundle, marked A, is an authenticated copy of collections in the Kovvada Pargana of the Gutala Estate from the years 1777 to 1784, in which Devipatnam is entered bearing a kist of 30 Pagodas = 105 Rupees. The other two villages are not entered in this statement.

The next document (B,) is an authenticated copy of register of transfers of the Gutala Estate, dated 13th December 1813, in which Devipatnam is entered as one of the villages bearing a kist of 33 Pagodas = 115½ Rupees. No mention is made of Sivagiri and Chiduru.

Then come bundles of accounts, marked C—R, including most of the years between 1827 and 1850. From these it appears that 100 Rupees were paid by Subba Reddi for the village of Devipatnam and 33 Rupees for the villages of Sivagiri and Chiduru. It is in one of these accounts that the term "Mokhasa" is applied to the villages of Sivagiri and Chiduru. As far as I can

gather from these accounts it appears that an allowance of 80 Rupees was paid yearly to Subba Reddi as wages, or rather deducted from the amount due by him. In more than one account it is distinctly entered—

	RS.	RS.
Devipatnam	160	
Sivagiri and Chiduru	33	
		193
Deduct wages		80
		113

The last, marked S, is a copy of a demand, collection, and balance statement, dated 31st May 1853, from which it appears that Subba Reddi was to pay a kist of 300 Rupees for the villages of Devipatnam, Sivagiri, and Chiduru. I mention this separately as it agrees with the document B mentioned above.

9. From 1st to 19th August 1849 the Gutala Estate was attached and was under Government management. The accounts during these few days are countersigned by the Zufti Amin. The following are the principal accounts produced :—

The day-book, marked T, from 1st to 19th August 1849, in which 32 Rupees are credited as collection of Sivagiri and Chiduru for the previous fasli due by Subba Reddi. The difference in this item and the 33 Rupees mentioned in the former accounts is easily explained, as in many of the former demand, collection, and balance statements the item is entered thus—

	RS.
Sivagiri and Chiduru	32
Nuzzer	1
Total...	33

The demand, collection, and balance statement, marked V, dated 19th August 1849, bears the same entry as the above in regard to the villages of Sivagiri and Chiduru.

10. In addition to the above documents the Gutala proprietor produces a copy, marked W, of a list of villages belonging to Devipatnam said to have been sent to the Gutala Darogah by the proprietor on the 8th June 1845, in which Sivagiri and Chiduru are shown as under the Curnam of Devipatnam. There is no means of authenticating this.

11. I have now briefly enumerated the documents on which the Gutala proprietor bases his claims. The records of the Huzur have been searched several times to obtain any information concerning the villages of Sivagiri and Chiduru. It appears that in the accounts of Fasli 1196 (statements of Record-keeper, marked No. I) the three villages marginally noted are entered as Mokhasa villages with a kattubady of 12 Pagodas payable to Devanam. Subsequently the Gutala Estate underwent numerous changes, and in 1810 was put up to sale and purchased by Raghavaraz Bommayemma, who sub-divided the estate with Machiraz Virraz and executed an agreement on the 2nd February 1811 (marked No. II.), in which Sivagiri and Chiduru are entered as separate villages and as part of the share of Raghavaraz Bommayemma. Subsequent to this no mention is made of Sivagiri and Chiduru either as Mokhasa villages or hamlets of Devipatnam until the year 1852, when they are entered in the sub-division accounts (statement of Record-keeper, marked No. I.) along with certain other villages marginally noted as hamlets of Devipatnam.

1 Kortur, 2 Sivagiri, and 3 Chiduru.

1 Sivagiri, 2 Chiduru, 3 Patnam Vudutapalli, 4 Singanapalli, and 5 Chigondipalli.

On the 2nd March 1844 a petition, marked No. III., was addressed to the then Collector, Mr. Prendergast, by Korukonda Subba Reddi, in which, while describing his own circumstances, he states that he is living on fees levied on timber passing through the country and upon the village of Devipatnam, which was granted to him on Mokhasa tenure by the Gutala proprietor.

In 1853 a report was made by the Darogah of Gutala that the Gutala proprietor was fraudulently enjoying an excess of land over and above the twenty-nine candies entered in the accounts as the area of Devipatnam and requesting the Sub-Collector to send the Bhuband accounts

Proceedings of the Madras Government, Revenue Department,
15th September 1873.

of that village. In reply to this, on the 31st May 1853, the Darogah, was directed to enter the villages held in excess as hamlets of Devipatnam, and the Sub-Collector refused to send the Bhuband accounts (copy or order marked No. IV.)

On the 17th August 1859, Dittmatrow Veera Venkanna, Curnam of Sivagiri and Chiduru, addressed a petition, marked No. V, to the Sub-Collector stating that in the inquiry about to be held regarding these villages he would represent that Dhumantarau Kristnayya, another Curnam, had fraudulently entered these two villages in the name of the Gutala proprietor. This man was examined before the Sub-Collector on the 19th September 1859 (Statement, marked No. VI.), and stated that the villages were enjoyed as Mokhasa by Lingareddi, and afterwards by his son Subba Reddi, during the past and present Zemindar's time, and that a kattubady of 32 Rupees per annum had been paid on them ; that in the accounts of Fasli 1252 the Gutala proprietor managed to have the villages entered as hamlets of Devipatnam, though this was not really the case.

On the same day, Dhumantarau Kristamma, another Curnam of these villages, was examined (statement marked No. VII.), and stated that these villages were entered in the accounts of the proprietary estate as Zeroyti and not Mokhasa, and that under the present proprietor the three villages of Devipatnam, Sivagiri, and Chiduru were rented out to Korukonda Subba Reddi on a favourable rent on condition of his keeping peace in the Zemindari frontier, and that when disturbances ceased the village of Devipatnam was resumed and the other villages still rented for 32 Rupees per annum.

12. The whole evidence that I have been able to collect is now before you, and it is for Government to decide what is now to be done. I have little doubt that Sivagiri and Chiduru were originally Mokhasa villages granted prior to the permanent settlement. The entry in the accounts of Fasli 1196, and the fact that the villages are not included in the Sanad of the Polavarum Zemindari, are good evidence to show that they were excluded from the assets on which the permanent peishcush was fixed, though there is no mention made of these villages in the Bhuband accounts. I am also equally clear that these villages did pay a kattubady of about 32 Rupees per annum to the Gutala proprietor, and from the complicated transaction between the Gutala proprietor and Subba Reddi they may have come to have looked upon as part of the estate and lost in some measure their Mokhasa nature. If they did so pass into the Gutala proprietor's possession at any time it was no doubt in contravention of Section 12, Regulation XXV. of 1802.

13. The best course to have pursued in 1859 would no doubt have been to have given permission to the Gutala proprietor to sue in the Civil Court for the recovery of any rights which he might possess. It is quite possible that he might have recovered possession of the two villages by a decree of a Civil Court, for the case is very analogous to one which occurred in the Vizagapatam District, reported, on appeal, in the High Court Reports, Volume III., paragraph 2, No. 1, in which it was held that a holding for a long period of years and a payment of rent to the Zemindar established only a tenancy from year to year terminable at the will of either party. It is true that in the present instance there are the accounts of Fasli 1196 to prove a Mokhasa tenure, which distinguish it in some measure from that case.

14. On consideration of the whole of the above evidence I am inclined to think that the Gutala proprietor is at all events entitled to a payment of Rupees 32 per annum for the two villages, and that this amount should be paid to him for eight years, from 1858 to 1866, inclusive (amounting to Rupees 256), together with interest, and that for the future a permanent deduction of Rupees 32 should be made from his peishcush. If this be done I do not consider that the proprietor will have any just cause of complaint.

15. At the same time I am doubtful whether the proprietor of Gutala would not have had a valid claim to these villages on the ground that they were originally Mokhasa villages paying a kattubady to his estate and that the reversionary right to them vested in him. He might have urged that there is no mention made of the villages in the Bhuband accounts, and that had Subba Reddi remained in possession the Inam Commissioner would have declined to investigate his claim to have them enfranchised. This plea, it may be observed, is not put forward by him, and I do

not know whether it has ever been decided whether the reversionary interest to such Mokhasas vests in Government or in the proprietors in whose estates they are situated.

16. The kist of the two villages of Sivagiri and Chiduru for the last nine years is herewith appended. The villages have been rented in joint rents but have not been included in the Zeroyti lands until the present claim was finally settled:—

	Sivagiri.	Chiduru.
	RS.	RS.
Fasli 1268	40	40
,, 1269	50	50
,, 1270	60	60
,, 1271	65	65
,, 1272	66	68
,, 1273	70	72
,, 1274	90	92
,, 1275	105	105
,, 1276	108	108
Total...	654	660

17. I may mention that on the 16th December 1864 the proprietrix of Polavarum put forward her claims to the villages of Sivagiri and Chiduru, alleging that they belonged to her estates Her excuse for not bringing forward her claims till seven years after the attachment of the villages by Government is the want of evidence. She requests to have the matter disposed of by reference to the public records. It appears from a report received from the Record-keeper, dated 30th March 1860, marked No. VIII., that Sivagiri and Chiduru are entered in the Muttabandi account. in the Polavarum Estate). This was prior to 1810, when Bommayemma held the whole Polavarum Zemindari, which was subsequently divided into the present estates of Polavarum and Gutala, and there is no doubt that in apportioning the villages when the sub-divisions were made numerous alterations took place.

18. Her claim is, I consider, wholly inadmissible, and she should be referred to a Civil Court if she considers she has any ground of complaint.

(True Copy.)

(Signed) W. S. FOSTER,
Acting Collector.

ENCLOSURE No. 2.—Extract from Accounts.

THE Gutala proprietor claims the villages of Sivagiri and Chiduru as hamlets of Devipatnam, one of his villages, and proves beyond question that they paid him Rupees 32 per annum.

2. The river Godavery flows between Devipatnam and the disputed villages, and the latter are not hamlets belonging to the former. The Board consider the evidence that the villages belong to the Gutala Estate inconclusive, though an intrigue was evidently on foot to make out that the holder leased them from the Zemindar of Gutala in 1852.

3. All that is proved is that the holder of the villages paid a tribute of Rs. 32 a year to the Gutala Zemindar. Whether the tribute was justly demanded and could be legally enforced or not it is impossible to determine. The origin was probably in unrecorded circumstances attending the disruption of the old Polavarum Estate.

4. The Board resolve to recommend Government to sanction—as a matter of grace, not of right—payment to the Gutala proprietor of Rupees 480, being Rs. 32 a fasli, for the fifteen faslis, from Fasli 1268 to Fasli 1282, and a permanent remission of peishcush amounting to Rupees 32.

No. 111. ORDER THEREON, 15th September 1873, No. 987.

Land Revenue.

THE Governor in Council concurs in the conclusions of the Board of Revenue, as expressed in paragraphs 2 and 3 of the foregoing Proceedings; but, under all the circumstances of the case, he is pleased to sanction the remission of Rs. 32 from the annual peishcush of the Gutala Estate, and the payment of Rupees 480 to the proprietor, as recommended in paragraph 4.

(True Extract.)

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

To the Board of Revenue.
,, the Accountant-General.

Exd. F. R. Bantleman.

Revenue 1873 Sept
No. 2733

1873.

Board of Revenue,
MADRAS.

PROCEEDINGS, 25TH AUGUST 1873, No. 1,647.

Despd 4 Sept 1873.

Encl. 1

Received 8 September /73

AUGUST.

No. 1,647.

Gutala Estate—in Godavery District.—Collector's report on claim of proprietor of — to villages of Sivagiri and Chiduru, submitted to Government with expression of Board's opinion that evidence that villages belong to the estate is inconclusive; but that, as a matter of grace, Rupees 480 should be paid to proprietor on account of past revenue and a permanent remission of Rupees 32 sanctioned in peishcush.

With Order
GO-15 September /73 No 987

c 12 Sept 73 R 15 Sept

To Board's Gutt Genl
Disp 23 Sept

No 984. 15 Sept 73

Re Gutala Estate in the Collectorate of the Board of Revenue to enquire into the claims of the Zemindar of Gutala to villages Sivagiri and Chiduru, and to report the result of his enquiry to Government with his opinion thereon

Read the following letter from the Collector of Godavery, dated 4th August 1873, No. 1,647, forwarding a petition from the Zemindar of Gutala, praying for the grant of the villages of Sivagiri and Chiduru, and for the remission of the peishcush payable on account of the same.

2. The Zemindar's claim to these villages is based on the following grounds:—

3. That they were granted to his ancestor by the Rajah of Vizianagram, and that they were subsequently resumed by the Rajah of Pittapur, who was the superior lord of the Zemindar of Gutala.

4. That the Zemindar of Gutala has been in possession of the villages for 70 years, and that they have been enjoyed rent-free by his ancestors for 200 years.

5. That the Zemindar has been in the habit of paying a peishcush of Rupees 32 on account of the villages, and that he has been in the habit of receiving from the ryots the rents due on the lands in the villages.

6. That the Zemindar has been in the habit of paying the Government assessment on the lands in the villages, and that he has been in the habit of receiving from the ryots the rents due on the lands in the villages.

7. That the Zemindar has been in the habit of paying the Government assessment on the lands in the villages, and that he has been in the habit of receiving from the ryots the rents due on the lands in the villages.

8. That the Zemindar has been in the habit of paying the Government assessment on the lands in the villages, and that he has been in the habit of receiving from the ryots the rents due on the lands in the villages.

9. That the Zemindar has been in the habit of paying the Government assessment on the lands in the villages, and that he has been in the habit of receiving from the ryots the rents due on the lands in the villages.

10. That the Zemindar has been in the habit of paying the Government assessment on the lands in the villages, and that he has been in the habit of receiving from the ryots the rents due on the lands in the villages.