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Government of Madras

Revenue DEPARTMENT

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Not to be folded or roughly handled

From C. G. MASTER, Esq., Collector of Ganjam, to the Secretary to the Board of Revenue, dated Chetterpore, 2nd August 1873, No. 1,768.

WITH reference to the last paragraph of the Board's Proceedings, dated 22nd June 1872, No. 1,073, I have the honour to report that no survey fields have been sub-divided in this district under orders of the Civil Courts, but that I think a legislative enactment to prevent such sub-divisions to be very necessary for the reason stated by the Board. When a party brings a decree of the Civil Court, adjudging his right to a portion of a survey field, and asks for a putta in his name for that portion, he is now simply told that his name will be entered in the putta jointly with the existing Puttadar or Puttadars. In the absence of any legal sanction the continuance of the above practice is unsafe.

From the Hon. D. ARBUTHNOTT, Collector of Tanjore, to the Secretary to the Board of Revenue, dated Tritrapoondy, 1st July 1873, No. 228.

WITH reference to paragraph 5 of the Board's Proceedings, dated 22nd June 1872, No. 1,073, I have the honour to report that the sub-division of fields under Court's decrees is a matter of daily occurrence in this district. The precise number of fields now thus divided cannot be ascertained without considerable labour and research, but it may be roughly put down as 20,000. This, however, bears but a very small proportion to fields held in portions otherwise than under Court's decrees with separate registry; for the sub-division of fields on private sales, and partition of holdings, has always been recognized in this district as a matter of right, and it appears to me that any restriction of this right is inexpedient and impolitic.

2. Indeed, this system of holding fields in separate shares is a normal condition of individual property in land as it is constituted in Tanjore. As the Board are aware in most cases the village lands in this district are held in shares, each made up of a like proportion of lands of different qualities or classes, and as fields representing each distinct class cannot be sufficiently numerous to admit of one being included whole in each share, they are unavoidably split into separate portions and distributed among the several shares. This arrangement is coeval with the formation of the agricultural community itself.

3. Now if the proposed restriction is to be enforced retrospectively, which it must be if it is to be of real utility; to say nothing of the general depreciation of property in land, there will be a complete subversion of holdings; the bulk of the existing individual puttas with the other records therewith connected will have to be set aside and new ones substituted, with a readjustment of fields in wholes, and the confusion that would arise in regard to individual rights and liabilities can scarcely be imagined. The effect of the contemplated restriction on the value of land would necessarily be very depressing; for no one would buy, except at a nominal price, land which is liable to be sold at any time for Government dues left unliquidated by another.

4. The present system is not attended with any serious inconvenience, and in my opinion the evil of minute sub-division of land is one which must be left to correct itself, which it assuredly will do whenever the sub-division has attained a limit beyond which it will operate to the detriment of those most interested, but any attempt to fix this limit by law will assuredly end in disastrous failure.

From A. CRUICKSHANK, Esq., Acting Collector of Vizagapatam, to the Secretary to the Board of Revenue, dated 21st August 1872, No. 953.

I HAVE the honour to forward, herewith, copy of the report submitted by the Acting Senior Assistant Collector in charge of the Principal Assistant Collector's office regarding the sub-division of survey fields referred to in paragraph 5 of the Board's Proceedings, dated the 22nd June 1872, No. 1,073, and to state that I think the sub-division of fields under orders from the Civil Courts should not be prevented by law, because it would be empowering the Revenue authorities to render the decrees and the orders of the Civil Courts of no effect, to a certain extent at least. The Civil Courts can never be precluded from ordering the land to which any one is entitled, no matter whether a whole survey field or not, to be made over to him or ordering the sale of land belonging to any one against whom a decree has been passed sufficient to satisfy the decree. The Court can of course put the party in possession of the land, which is the chief thing, and the granting of putta may be held unnecessary, but it is a rule that the Revenue authorities are to look to the Puttadar for the payment of the amount due on the land entered in his putta and this rule is followed, though it is known the Puttadar is not actually in possession of the land. The object of the rule is to avoid becoming involved in questions of right to the land, but here the right to the land has been established before a Civil Court and still effect is refused to be given to the orders of the Court. The work of Curnams and others may be increased if the sub-division of fields under orders of the Civil Courts be allowed, but I conceive that is no valid reason why a man should be deprived of what he is legally entitled to.

ENCLOSURE No. 1.

From J. B. JONES, Esq., Acting Principal Assistant Collector, to the Acting Collector of Vizagapatam, dated Ankapilli, 14th August 1872, No. 74.

WITH reference to paragraph 5 of the Proceedings of the Board of Revenue, dated 22nd June last, No. 1,073, I have the honour to inform you that the taluqs of Golgonda and Survasiddy, which are Government estates, have never been surveyed and the extent of fields varies. In these taluqs no fields have been sub-divided under the orders of any Civil Court within the last three years, but I would suggest that some limit should be maintained, *i. e.*, that an application for sub-division below 2 acres of land for wet and 4 for dry lands should be rejected, and for this purpose an enactment should be passed.

(True Copy.)

(Signed) A. CRUICKSHANK,
Acting Collector.

From G. D. LEMAN, Esq., Acting Collector of the Kistna District, to the Secretary to the Board of Revenue, dated Masulipatam, 25th July 1872, No. 1,956.

WITH reference to paragraph 5 of the Board's Proceedings, No. 1,073, dated 22nd June 1872, I have the honour to report that no survey field has yet been sub-divided in this district.

2. In cases where the parties have obtained decrees of Court for a portion of a survey field the practice here is to issue a joint putta for that field and a joint receipt book, both parties being left to make their own arrangements, and to divide their respective portions of the land for cultivation if they please; and both parties are jointly and severally held responsible for the assessment of such survey field. However likely to lead to disputes where the two do not agree I am informed that no inconvenience has yet been experienced from this practice, but that the person making payment invariably brings the receipt book with him; and I do not think there is any necessity, as far as this district is concerned, at present for the change proposed. However, it will be carefully observed, and when application is made for a sub-receipt book it will always be given.

3. I believe the Courts can, if they choose, on the application of a party direct the Collector to sub-divide a number and give a putta for the sub-division. And though the Collector would be able to give his reasons for desiring not to do so it would in all cases depend on the Judge how the appl ition was decided. I should, therefore, advise a law to prevent sub-division. If once an injunction was granted here for sub-division I expect the applications in the Courts would be very numerous indeed, and, as the Board say, the results of survey would very soon be obliterated.

From R. K. PUCKLE, Esq., Collector of Tinnevelly, to the Secretary to the Board of Revenue, dated Courtallum, 20th July 1872, No. 310.

In reply to Board's Proceedings, No. 1,073, dated 22nd June 1872, I have the honour to inform you that I do not see how the sub-division of fields can be prevented as long as the Hindu Law of Inheritance exists, or the right of the Puttadar to sell, mortgage, or otherwise alienate all or any of the lands entered in his putta is recognized.

2. Should a Puttadar die and bequeath a field to his sons and they agree to divide their property, or should a ryot sell a portion of a field the Civil Court can compel separate registry, if not the grant of a separate putta.

3. The survey blocks into which we sub-divide villages are mere arbitrary divisions containing usually two or more revenue fields, and if I am right in my interpretation of the Board's argument the value of the survey is already vitiated in the case of every block that contains more than a single revenue field. But as for greater convenience of survey we have advisedly departed from the standard of the revenue field and have adopted the survey block, the number of interstitial fields or sub-divisions that may be contained in any one survey block, makes practically but little difference to the Settlement Officer; while the confusion consequent on several ryots, perhaps vendors and purchasers, mortgagors and mortgagees, hostile members of a divided family, etc., etc., holding but one joint putta for any one survey block, would be far greater in my opinion than that caused by recognizing each man's claim to a separate putta or account showing the land he occupies and the amount that he has to pay.

4. The difficulty too of collecting the revenue on any particular field held on such joint putta would be excessive. Who is to hold the puttah, and who is to pay the revenue? The man who holds the putta may purposely fall into arrears for the sole object of procuring the attachment and sale of the property. Three out of four joint Puttadars may be absentees, and the fourth, who holds the putta, may be totally unable to pay the assessment on the entire block, and if he, as the only resident, does not hold the putta he is in a worse predicament than if he held it. People of all classes and creeds may be grouped in one joint putta, and a man who owns a dozen slips of land in different parts of the village may be an unwilling sharer in as many joint puttas, and may possibly not hold any one of these puttas himself.

5. In consideration of all these difficulties I would therefore advocate the recognition of each ryot's claim to hold a separate putta. Survey fields have not yet been introduced in this district, so no sub-division has yet been made by order of the Civil Court, and I am not at all in favour of legislating to prevent what I regard as a convenience both to Government and the ryot.

From J. R. COCKERELL, Esq., Commissioner of Nilgiris, to the Secretary to the Board of Revenue, dated Ootacamund, 28th August 1872, No. 95.

With reference to paragraph 5 of the Proceedings of the Board of Revenue, dated 22nd June 1872, No. 1,073, calling upon Collectors to report (1) whether any survey fields have been sub-divided under orders of the Civil Courts; and (2) whether they think a law necessary to prevent such sub-division, I have the honour, in reply to the first question, to state that no sub-divisions have occurred on the Nilgiri Hills; with regard to the second question I beg to submit my opinion that legislation is not called for. When ryots are litigating between themselves it is not competent to the Courts to go *beyond* the parties and prescribe to the Collector, a third party, the manner in which he is to issue puttas on the part of Government. No suit brought by a ryot against the Government to try the question, whether a ryot has a right to a putta for a sub-division of a survey field, has yet been decided. When a decree upon such a suit appears will be, in my view, the time to determine whether it is necessary to pass a preventive Act. It seems to me that at present legislation would be premature.

From C. F. LONGLEY, Esq., Collector of Salem, to the Secretary to the Board of Revenue, dated Shevaroy Hills, 6th August 1872, No. 197.

With reference to paragraph 5 of the Board's Proceedings of the 22nd June last, No. 1,073, I have the honour to state that in no case has the Civil Court in this district required the sub-division of survey fields, and in my opinion no law is at present required to prevent any such sub-division.

From A. MACGREGOR, Esq., Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 17th August 1872, No. 196.

I have the honour to reply to the Board's Proceedings, dated 22nd June 1872, No. 1,073.

2. The course prescribed by the Board in paragraph 4 of the above Proceedings, of giving to the holders of joint puttas separate receipt books in cases where they pay their share of tax individually, has been observed in this district for a long time, although such books were neither allowed any sub-number, nor were the entries in the sub-receipts ever transferred to the principal receipt book.

3. In the case of a putta where receipt books have to be given to more than one individual all such books are numbered to correspond with that in the putta. The method of sub-numbering these, as directed by the Board, will be adopted in future. The system of granting joint puttas is, however, of rare occurrence in this district.

4. The report called for in the last paragraph of the Proceedings above referred to is, I presume, in connection with those districts where a survey has already been made, but as this district has not as yet been surveyed I take this opportunity of briefly stating the practice obtaining here as regards the division of lands.

5. Owing to the divisions of property in consequence of family dissensions, sales, and other causes, a great many applications are yearly received for the separate registry of lands which had up to that time remained as a whole in our registers, and for the grant of separate puttas for them. Such applications are usually granted as a matter of course after due notice. There are many such divisions whose extent as well as assessment come up to only a few Annas, and in some cases these even fall below an Anna.

6. By this practice the number of puttas is not greatly increased, as generally the greater portion of the purchasers already own lands and possess puttas, yet the numbers in the register are found to multiply rapidly.

7. This matter, like some others, when increased on the one hand finds no decrease whatever on the other; for instance if the owner of a piece of land measuring 10 acres and registered as one number were to dispose of it in ten shares to ten individuals and have them accordingly registered as ten different numbers, and subsequently were these ten different shares purchased by another they will never be again found in the register as one number but as ten different numbers.

8. The subject had my attention some time ago, and although I was unwilling to make any changes which would tend to inconvenience or disturb the existing system observed by the ryots, still I have added the following clause to the Jummabbundy Hookumnamah of this district, prepared and submitted to the Board in conformity with their Proceedings, dated 17th August 1869, No. 6,134 :—

"*Malabar Supplement to the General Hookumnama, paragraph* 5.—When a portion only of a land, bearing a separate name and number in the register, is proposed to be transferred such transfer shall not be recognized and separate puttas issued, unless the assessment to apportioned on the portion to be transferred or retained amounts to not less than one Rupee. it is less than one Rupee the Collector may at his discretion issue a joint putta, but he shall n be bound to give in such joint putta any definition of boundaries or specification of shares."

9. I do not advocate any legislation prohibiting sub-divisions, holding that the revenu system must adapt itself to the conditions and exigencies of landed property.

From H. SEWELL, Esq., Acting Collector of Cuddapah, to the Acting Secretary to the Board of Revenue, dated 9th October 1873, No. 185.

With reference to the Proceedings of the Board of Revenue, dated 22nd June 1873, No. 1,07[illegible], I have the honour to report that no sub-division of fields has been made in this district under orders from the Civil Courts, and that no law is necessary for the prevention of such procedure. The Acting Sub-Collector, however, is of opinion that sub-division of fields, which are very large in extent, might conveniently be allowed fixing one Acre for wet, and two Acres for dry as a minimum for division. This procedure no doubt would much interfere with, and disturb the present survey work, which is far advanced in the district.

2. The system of introducing sub-receipt books to holders of land on joint puttas referred to in paragraph 4 of the Proceedings under reply, will have a beneficial effect.

From H. E. SULLIVAN, Esq., Acting Collector of South Arcot, to the Secretary to the Board of Revenue, dated Punrootty, 17th June 1873, No. 207.

I AM reminded by paragraph 8 of the Board's Proceedings No. 832, dated 19th ultimo, that I have not yet submitted the report called for in Proceedings, dated 22nd June 1872, No. 1,073. I have to apologize for the delay which has occurred. I put all the papers away together intending to furnish the report before going away on leave, but they were lost sight of.

2. From the reports received from the Division Officers it would not appear that separate puttas have, in any instance, been granted for portions of survey fields under the orders of the Civil Courts, the decree of the tribunal making the award of such portions having been satisfied by entering the holder's name as a sharer of the field.

3. The opinions of the local officers, as to the necessity for the interference of the Legislature to prevent the sub-division of survey fields by the Civil Courts, may be thus summarized :—

(1.) The Sub-Collector considers that the indivisibility of a revenue field "is the backbone of the ryotwary system," and that the Civil Courts must be prevented by law from splitting them up.

(2.) The Head Assistant Collector would impose a limit on the powers of the Courts to award portions of survey fields, and suggests one cawny as the minimum extent which should entitle the owners to a separate putta ; a law thus far restrictive he considers necessary.

(3.) The Assistant Collector considers legislation to be necessary not only to restrict the power of the Courts from awarding to suitors portions of survey fields, but also in view to a legal definition of the nature of, and the rights conveyed by, a putta.

(4.) The Deputy-Collector in charge of the Trikalore Division is entirely opposed to any restriction being placed on the action of the Civil Courts in this matter, considering it inexpedient to frame a law to undo, as it must in effect do, the provisions of the law of the country."

4. I may as well state here that my own opinion is that it would be impolitic and productive of great inconvenience to the public if a law prohibiting the Civil Courts from directing the issue of a putta for a portion less than a Survey or Pymash field were enacted, the more especially that the extent of these fields has been fixed in the most arbitrary fashion possible. They vary in this district as follows :—

Old Pymash Fields.						*New Survey Fields.*				
Cawnies.			Cawnies.				Acres.		Acres.	
Nunjah from	8	to	0	0	1	Nunjah from ...	37·18	to	0·1	
Poonjah from	15	to	0	0	1	Poonjah from ...	127·75	to	0·2	

5. Now it does seem rather hard that, because, for the sake of convenience, the Land Survey Department has split up the country into a number of fields, the extent of which has been arbitrarily fixed, the Government should refuse to recognize the proprietary right of those individuals who hold only portions of such fields, for this is virtually the case when the right of a man to a putta for less than a survey field is denied. It has been held that a putta conveys no title, or, to use the words of the late Sudr Adalut, that "the registry of land in the name of a party is altogether insufficient to prove his right of property, and that taken at the best it only sets him up as the ostensible proprietor." Now, with all deference I submit, that a putta issued by a competent authority, *in the absence of any other document modifying or annulling the rights thereby conferred*, is quite sufficient to prove a right of property. It is universally admitted that the proprietary right in the soil vests, in the first instance, in the State, and this right is transferred by the putta on certain specified conditions to individuals. The right thus acquired can again be transferred from one to another, and the first act of the new proprietor is to claim a transfer of registry. So important, however, are considered the rights which a putta carries with it that Revenue officers are prohibited, except in the case of a Puttadar having died, from making any change of registry unless both the contracting parties are present in person, or by Agent to give their assent. In many cases the former proprietor throws every obstacle in the way of thus completing the transfer, and the owner has to enforce the change of registry by a

Civil action, in which *pro forma* the Collector is made a defendant. It must therefore be conceded that there is some virtue in a putta, and that the community attach considerable importance to their landed proprietary rights being recorded in the registers maintained by the Revenue Department. And so long as the land is held on condition of the punctual discharge of its liabilities to the State, this registration is essential to the security of those rights; for the State recognizes only the registered Puttadar, he only is advised of arrears being due on the land, and on him only can the demand for payment be served, although, in point of fact, he may have divested himself of all proprietary rights over the land on which the arrear is due. The real owner is thus placed in a very anomalous position. He may be quite ready to pay the State demand the moment he is asked for it, but because he happens to own a portion and not the whole of that arbitrary unit called a survey field, his existence is ignored, and payment is demanded from a person who has no interest whatever in the land. The result often is that the land is sold to the detriment both of the owner and of the public revenue. And again, a man who holds a putta knows exactly what his liabilities are, and that if he discharges them punctually no one can disturb his possession. But an unfortunate who owns, in the fullest extent of the word, ¾ths of a survey field, and who punctually pays the State demand on that portion may, at any moment, have his land sold up on account of arrears having accrued on the ¼th field in the occupation of another, simply because, under the revenue system in force, a putta cannot be granted to him for the ¾ths portion of the survey field which is undoubtedly his property but which the Government will not recognize as such, and holds liable for money due on other lands. That such a system must seriously affect the value of landed property cannot for a moment be doubted; it opens, moreover, a wide door to fraud; it presses with great hardship on a large section of the community; and, as remarked by Mr. J. D. Robinson in his letter, dated 20th February 1872, No. 69, "it sacrifices the interests of the industrious and simple-minded to the recusant and litigious, and must very generally be a check on agricultural enterprise." My advice is not to frame a law to prevent the Civil Courts from redressing what is an undoubted grievance, but to put matters right by taking away the grievance itself.

6. I think myself that the obstacles in the way of carrying out what would seem to be a salutary reform have been unnecessarily magnified. That at first there would be an increase of work in the way of registration of titles, I admit. Possibly in some parts a slight increase of establishment might be necessary, but in order to obtain so great a boon the people would gladly bear the expense of this, and a small fee levied for each change of registry, when the transfer was for less than a survey field, would, I think, meet the extra cost. I fail to see how the Curnam's field-work would be increased, as they would only have to inspect the same area as now, although they would have some additional entries to make in their accounts; but were the difficulties twice as great as I believe them to be, I think it is the duty of the State to overcome them, and not for the sake of saving some trouble and expense to sacrifice the interests of the agricultural community to an idea. For after all what is a survey field, and by what rule is its extent determined? Judging from the figures I have given in paragraph 4 it looks as if, when the survey came to this district, the extent of each man's holding in the villages was declared to be a survey field, and because at that period one man happened to own 37·18 acres of nunjah and another 0·1 acres, an unyielding rule was laid down that for all time these particular areas were to constitute survey fields and to be indivisible.

7. A good deal of capital has been made out of the term "pauper holdings." If by this is meant the farms of small proprietors in this country who, not able to afford to employ labour, till the land themselves, I say the term is ill applied. Why should a man be stigmatised as a pauper because he brings his own labour in aid of a comparatively small capital. His income may not be so large as his neighbour who farms on a more extended scale, but if he makes his one or two acres produce sufficient to support him and his family he has fulfilled his duty to society and is as independent as his richer neighbour. The term "pauper" is defined in the dictionary as "one who depends on the parish." In this country there is no parish to depend on, and so far as the provinces are concerned the necessity for a poor rate has never yet been suggested. When a man is working for himself he puts his whole heart and strength into it, and the result is that many of these miniature farms are cultivated to the highest pitch and are in better order than more extensive plots where hired labour is employed. And this is found to be the case in all countries where the same condition of things exist. (See Mill on Peasant Proprietors.)

8. But even if there was nothing in the system to recommend it, there is the fact that the social conditions of the people tend to the division of landed property. It *is* divided and subdivided, and although we may assert that a survey field is an indivisible unit it will in fact be divided over and over again whenever the necessity arises. Now comes the question: Do we, by refusing to recognize this division, confer a benefit on the people themselves, and do we enhance the security of the public revenue? The answer must be that a system which tends to depreciate the value of landed property cannot possibly benefit an agricultural community; and as regards the second part of the question, I fail to see how a procedure which refuses to recognize an undoubted title to property and which holds one man's property liable for a debt due by another can possibly conduce towards the security of the public revenue. The means of a small proprietor are at best precarious, but give him fair play and he may hold his own and gradually extend his holding; but if he is any day liable to be sold up for the debts of another man, he must go to the wall. Numerous such cases occur every year, and a system which authorizes such inequitable procedure must, to use the Board's expression, be utterly "wrong in principle;" therefore let us not seek to bolster it up with legislation.

Exd. T. O'Connor.

From G. VANSAGNEW, Esq., Collector of Nellore, to the Secretary to the Board of Revenue, dated 14th March 1873, No. 583.

I HAVE the honour to acknowledge the receipt of the Board's Proceedings, No. 1,073, dated 22nd June 1872, calling for a report as to the number of survey fields sub-divided under orders of Civil Courts, and as to the necessity for a law to prevent such sub-division.

2. From the reports of Tahsildars and Divisional Officers I find that there has been no instance of a field having been sub-divided under the orders of Civil Courts.

3. As a rule the Civil Courts do not mention puttas in their decisions. When a decree holder satisfies the Revenue authorities that the decision under which he claims a transfer of putta has been executed the transfer is ordered. Separate puttas are issued only for entire fields or sub-number of such fields already recognized. If the decree holder is entitled to a portion only of such field his name is included jointly in the putta already issued; but no sub-division or separate puttas are allowed. So far as this district is concerned I do not see any present necessity for a legal enactment to prevent sub-divisions of fields.

From T. A. N. CHASE, Esq., Collector of Kurnool, to the Secretary to the Board of Revenue, dated 10th January 1873, No. 5.

WITH reference to paragraph 5 of Board's Proceedings, dated 22nd June 1872, No. 1,073, I have the honour to inform you that no survey fields in this district have been sub-divided under orders from the Civil Courts. Where portions of numbers held on putta have been sold or decreed by the Courts it has been usual to enter the certificate or decree holders as joint Puttadars in place of, or in addition to the name of the party decreed against as the case may be. Actual sub-division of a field, and the separation of puttas, has never been ordered by the Courts, and is never likely to be, except in very rare cases where sub-numbers may be given to the fields without altering the survey number. I am consequently of opinion that no legislation is necessary on the subject.

2. I beg to enclose copies of reports received from the Divisional Officers.

ENCLOSURE No. 1.

From C. L. B. CUMMING, Esq., Assistant Collector, to the Collector of Kurnool, dated 26th July 1872, No. 72.

YOUR docket, No. 707, dated 18th July 1872.

Informs that no survey fields in his division have been sub-divided under orders from the Civil Courts, and expresses his opinion that a law on the subject does not therefore appear to be necessary.

(True Copy.)

(Signed) T. A. N. CHASE,
Collector.

ENCLOSURE No. 2.

From E. TURNER, Esq., Acting Head Assistant Collector, to the Collector of Kurnool, dated Cumbum, 5th September 1872, No. 252.

IN reply to your docket, No. 707, dated 18th July 1872, requesting me to report, with reference to paragraph 5 of the Proceedings of the Board of Revenue, No. 1,073, dated 22nd June 1872, I

have the honour to state that no survey fields in the Taluqs in my division have been sub-divided under orders from the Courts of Civil Jurisdiction.

2. The practice in this division, whenever such orders are produced, is to register to the decree holder the full numbers of survey fields if they are so decreed, or to enter his name as joint Puttadar if a portion of the land of the Puttadar was decreed, or the right of one of the joint Puttadars if the decree was worded so.

3. I think it quite inexpedient to prevent such sub-division by legislation. There is but little probability that this sub-division will become so very general as to increase in any appreciable degree the labour of registering holdings and keeping the accounts. In such rare cases where such division may take place the interests of private property require that such sub-divided fields should be separately registered. This can be done without prejudice to the survey areas by using A B, C, and so on to the sub-divided numbers.

(True Copy.)

(Signed) T. A. N. CHASE,
Collector.

ENCLOSURE No. 3.

From A. RAMACHENDRA ROW, Deputy Collector, to the Collector of Kurnool, dated Nundial, 20th September 1872, No. 174.

WITH reference to your docket,* No. 707, dated the 18th July last, calling for the information required in the concluding paragraph of Board's Proceedings, No. 1,073, dated the 22nd June last, regarding the sub-division of survey fields under orders of the Civil Courts, I have the honour to state that no such division of survey fields has taken place in either of the taluqs of Nundial or Sirwell in my division.

* Reminder Docket, No. 928, dated 3rd instance.

2. The party in whose favour the Civil Court pass the decree for the transfer of land is granted a putta if the ousted party held an individual putta, and the name of the decree holder is shown in the joint putta in lieu of the defendant's name, when the latter was a joint putta holder.

3. As no hardship has been felt hitherto in regard to the sub-division of survey fields under orders of the Civil Courts I do not think that there is at present any necessity for a law on the subject.

4. The Acting Tahsildar of Nundial states also that in some cases the decree holder succeeds to a share of a field which the defendant was enjoying, but whose name had never found a place in the putta, which is solely in the name of a different person; and the putta, even after the production of the Court's decree, is not altered for the simple reason that the name of the defendant was never at any time shown in it. The Court's decree in such cases virtually remains a dead letter.

5. The last report on this subject was received from the Tahsildar of Sirwell only this day, and I was in consequence unable to submit this report earlier.

(True Copy.)

(Signed) T. A. N. CHASE,
Collector.

ENCLOSURE No. 4.

From D. TIMMAPAH, Deputy Collector, to the Collector of Kurnool, dated Peapally, 30th September 1872, No. 164.

WITH reference to your dockets, Nos. 707, 928, and 1,007, dated 18th July, 3rd and 25th September 1872, respectively, and to the last paragraph of the Proceedings of the Board of Revenue, dated 22nd June 1872, No. 1,073, I have the honour to submit two statements received from the taluqs under my charge showing portions of survey fields transferred to others under orders from Civil Courts and to report as follows.

2. None of the parties, to whom the lands mentioned in the statements have been transferred, obtained any decree or order from the Court to issue any putta in his name. The names of such individuals, except those who gained possession of the lands and succeeded to the rights, titles, and interests of the registered parties, were neither entered in the register nor puttas granted to them.

3. When parties produce sale certificates granted by the Courts for lands purchased by them in sales effected by orders of the Courts in executing decrees it has been customary to refer to the register and puttas to ascertain whether the names of judgment debtors, whose interests in the lands were sold, have been entered in them either as Puttadars or joint Puttadars, and if so to strike off their names and insert those of the purchasers in their stead; and if otherwise to refuse to grant puttas, and tell the purchasers that they may have the enjoyment of the lands without the puttas like the judgment debtors, whose interests in the lands they have purchased since the sales of the Courts are limited only to the rights, titles, and interests of the judgment debtors in the lands (*vide* Section 259 of the Code of Civil Procedure and Select Decrees* of the Sadr Adalat, Volume II., page 74.)

* Civil Rules of Practice published in 1863, page 42.

4. There are instances in which the Courts have passed decrees, establishing the rights and titles of other parties to portions of survey fields and a great many such decrees may hereafter be passed if disputes arise between members of Hindu families for division of family property.

5. The impression in the minds of people that a putta is an important document to strengthen their right and title to the land is gradully growing stronger, and I consider therefore that parties might sue in Courts to establish their right to hold separate puttas for the lands which have been awarded to them in proportion to their shares, and which have been put in their possession by the Courts.

6. Under the above circumstances I am of opinion that it would be desirable to promulgate a law, prohibiting the sub-division of survey fields and legalizing the refusal by the Revenue officers to grant puttas for portions of survey fields.

7. Section 225 of the Code of Civil Procedure (Act VIII. of 1859) provides that the decree of the Court for the division of an estate paying revenue to Government shall be executed by the Collector, under the orders of the Court according to the rules in force, for the partition of such estates; but according to the rulings of the High Court (Proceedings† of Sadr Adalat, dated 21st January 1862) this section is not applicable to the districts of Ryotwar settlement.

† Civil Rules of Practice, page 65.

8. It has been further ruled‡ in the Proceedings of the Sadr Court, dated 17th August 1860, that "it is not in the province of the Courts to assist a suitor in the transaction of his business in the Collector's office. No correspon-

‡ Sloan's Judicial and Revenue Code, 1862, third note on Section 225 of the Code of Civil Procedure.

dence with the Revenue authorities therefore will be necessary respecting the issue of puttas to persons to whom lands may have been decreed."

9. I consider it sufficient if a law be promulgated, making Section 225 of the Code of Civil Procedure applicable to the districts of Ryotwar settlement, and including therein the subject of the rulings of the Sadr Adalat alluded to in the above paragraph.

(True Copy.)

(Signed) T. A. N. CHASE,
Collector.

From A. WEDDERBURN, Esq., Collector of Coimbatore, to the Secretary to the Board of Revenue, dated 20th December 1872, No. 206.

With reference to paragraph 5 of the Revenue Board's Proceedings, No. 1,073 of 22nd June 1872, I have the honour to inform you that accounts as per the new survey (to which it is presumed the Proceedings refer, and not to the old Pymash survey fields, have only been introduced into some taluqs of this district in Fasli 1280* (1870-71), and into one more in Fasli 1281† (1871-72), and there are still six taluqs into which they have not yet been introduced. The Suttiamungalum Tahsildar states that 17 survey fields were sub-divided under orders from Civil Courts in seven villages of his taluq in Fasli 1281; and the other Tahsildars, where the new survey areas have been introduced, report that no sub-divisions were made in them.

* Suttiamungalum, Pulladum, and Perindoray.
† Bhowany.

2. I cannot see how Government can prevent ryots from dividing their property according to their rules of inheritance or otherwise; but if the question be as to sub-division by the agency of the Survey Department, and the issue of separate puttas for such sub-divisions by the Revenue Department, it is not known how such can be enforced by order of a Civil Court, unless the survey or the Revenue Department as the case may be was made a party in the suit in which the Court's decree was passed. When the department concerned is made a party it can explain to the Court the rules by which it is guided; and what is required is a rule that a survey field, already under occupation, shall not be sub-divided, and that separate puttas shall not be given for portions of an entire field already under occupation.

3. Ryots dividing between themselves an occupied survey field must hold it under a joint putta. This may be some inconvenience to the ryots, but without such a rule there would be endless trouble to Government in keeping accounts of the numerous sub-divisions, which, in the absence of a restriction, are likely to spring up.

4. If this view be taken no law will be necessary, but a Departmental rule, prohibiting sub-division of an occupied survey field, and issue of separate putta for portions of a survey field, will meet the case.

5. I mention "occupied survey field," for an unoccupied field is the property of Government, and may have to be sub-divided of various reasons by the agency of its own officers.

From W. S. FOSTER, Esq., Acting Collector of the Godavery District, to the Secretary to the Board of Revenue, dated Cocanada, 25th November 1872, No. 364.

Referring to paragraph 5 of the Board's Proceedings, dated the 22nd June last, No. 1,073, I have the honour to report that no Survey fields have been sub-divided in this district under the orders of the Civil Courts.

2. The holders of decrees of Civil Courts apply for the registry of their names, and they are registered jointly with the names of other claimants if there are any, or singly if there are none.

3. There is nothing, however, to restrain the Civil Courts from directing a sub-division of a Survey field, or the issue of a separate putta, and clearly there should be some legal enactment to prevent them, though such cases may be very few. I may add that practically, however, no mischief has as yet resulted from the absence of a law.

From R. W. BARLOW, Esq., Acting Collector of the Chingleput District, to the Secretary to the Board of Revenue, dated Saidapet, 7th October 1872, No. 410.

In reply to paragraph 5 of the Proceedings of the Board of Revenue, I have the honour to report that I have issued orders to the Tahsildars regarding the issue of sub-receipt books to joint Puttadars.

2. As regards sub-division of the recent Survey numbers, no such splitting, so far as I know, has as yet occurred in this district. It had been the practice formerly to grant separate puttas for portions of the old Pymash numbers, however small, if so decreed by the Civil Courts; but Mr. Fane put a stop to this about 1864, and would only issue a joint putta if the portion decreed was less than the full number, and the practice has continued so since, except in a few instances in which Mr. Blair did split Pymash numbers.

3. I have a case pending before me on review, in which I had refused to split Survey numbers, and in one instance I passed final orders to that effect, though so decreed by the Civil Courts; but as the Board seem to be of opinion that in the absence of special legal enactment, such decrees may be binding on the revenue authorities, I request specific instructions as to whether entering a plaintiff's name jointly in a putta, or puttas, is not sufficient compliance with Court's order; and if not, whether the portions should be indicated by sub-numbers or letters, as was done at the time of survey, when it was found that any one number was then held on putta by several individuals.

From W. S. WHITESIDE, Esq., Acting Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 5th December 1872, No. 637.

Adverting to paragraph 5 of the Board's Proceedings, dated 22nd June 1872, No. 1,703, I have the honour to forward a statement showing the number of survey fields which have been sub-divided within the last five years under orders from the Civil Courts.

2. I object strongly to the sub-division of survey fields from a Revenue point of view, but have great doubts as to the legality of refusing to register such sub-divisions ordered by the Courts without at the same time running the risk of a Civil suit, which will be the inevitable result of such refusal.

3. I am inclined to think that such action on the part of Revenue Officers would seriously affect the right of the decreeholder, whose ownership in a portion of the field decreed to him, and therefore his responsibility to pay assessment upon such portion only, are tacitly recognised by the Civil Courts. When, however, a Revenue Officer does not wish to disobey the order of the Court it is usual to issue a joint putta in the name of the decree-holder and other persons holding the remaining portion of the same fields. In such cases in spite of the orders of the Court distinctly recognising the responsibility of the decree holder to pay the assessment upon the portion of fields decreed to him, we by our own arrangement make him singly and jointly responsible for the assessment of the *entire* field. Such indirect interference with private rights will not, I fancy, be upheld by the Courts in the absence of a special law exempting Revenue Officers from the jurisdiction of the Civil Courts in such matters.

4. I am therefore decidedly of opinion that a legislative enactment is indispensably necessary for the protection of Revenue Officers in such cases.

5. The delay in the submission of this simple report is owing to the non-receipt of information from my Assistant, Mr. Sewell, up to the 30th ultimo.

It is but fair to Mr. Sewell to state that his report was, as usual, delayed by the absence of information from the Chittoor Tahsildar, to whom no less than four reminders on the subject were sent from my office.

ENCLOSURE No. 1.—Statement.

From W. McQUHAE, Esq., Acting Collector of Madura, to the Secretary to the Board of Revenue, dated Peracolum, 22nd November 1872, No. 341.

IN reply to paragraph 5 of the Board's Proceedings, dated 22nd June 1872, No. 1,073, I have the honour to report that no restriction has been placed on the sub-division of Revenue fields in this district. They have been freely sub-divided under decrees of Court and in the ordinary course of Revenue business. As soon as the new survey fields are formed their sub-division should be prevented by law, but apparently more than half the old Fysal fields have been sub-divided, and any rules now issued should affect the new survey fields only.

From J. H MASTER, Esq., Collector of Bellary, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Gadiganur, 12th June 1873, No. 185.

WITH reference to paragraph 5 of the Proceedings of the Board of Revenue, No. 1,073, dated 22nd June 1872, I have the honour to enclose a Taluqwar Statement showing the extent to which the sub-division of fields has been affected, under the orders of the Civil Courts, from which it will be seen that in 151 villages, 808 Survey fields have been sub-divided in this district.

2. The Division Officers all state that no law is necessary to prevent such sub-divisions of the fields. I agree with them, because although under the orders of the Courts, puttas are issued in the names of parties for portions of fields which they hold, the boundaries of such portions are not fixed by Government Officers and no sub-numbers are allowed. In the public accounts the extent of the portion held by each ryot is shown against the number and extent of the field. No difficulty has been hitherto experienced in preparing the accounts.

3. There are in this district many fields of enormous extent, portions of which are held by different ryots in whose names they are usually entered in the accounts, and puttas issued in their names. The new survey has been commenced in this district, and when it is completed the extent of a wet field will be limited to the extent of two acres and that of dry field to four acres. When this is done a general rule that no Survey field should be divided may be enforced in the taking of and giving up of lands by the ryots.

Statement showing the number of Survey fields sub-divided under the decrees of Civil Courts in the Bellary District.

Taluq.	No. of villages in which fields have been sub-divided.	Total number of fields sub-divided.
Raidrug	18	68
Alur	2	9
Adoni	4	10
Gooty...	18	71
Tadpatry	40	373
Anantapur	12	33
Dharmaveram	6	10
Pennakonda	13	74
Madakserah	12	48
Hindupur	12	77
Kudlighi	5	8
Harpanhally	2	7
Huvinhadgally	1	4
Hospett	6	16
Total ...	151	808

(Signed) J. H. MASTER,
Collector.

NOTE.—In Bellary Taluq there were no sub-divisions.

From J. B. PENNINGTON, Esq., Acting Collector of Trichinopoly, to J. GROSE, Esq., Secretary to the Board of Revenue, dated 13th June 1873, No. 114.

As directed in paragraph 5 of Board's Proceedings, No. 1,073, dated 22nd June 1872 and paragraph 8 of Proceedings, No. 832, dated 19th May 1873, I have the honour to append in the margin, a Statement shewing the number of Survey fields sub-divided under orders from the Civil Courts (up to Fasli 1281).

Taluq.	Survey No.	No. of sub-divisions.
Trichinopoly	44	88
Musori	3	6
Kulitallai	4	8
Perambalur	60	122
Udaiyarpalyam	5	10
Total ...	116	234

2. It will be observed from this Statement that within the seven years since the Settlement, 116 Survey numbers have been sub-divided into 234 fields.

3. If a law is necessary to prevent such sub-division I am decidedly of opinion that it should be enacted ; but I thought a sufficient defence to such suits had been found in the plea that there was no law to compel the Revenue Authorities to divide. I have not been able, however, to find the Board's Proceedings in which this was approved as a defence, and assume from the tenor of the last Proceedings received on the subject that it was found to be defective in some way.

4. So far as this district is concerned, there would probably be very few cases in which division would be pressed to an inconvenient extent, especially as it would always be necessary to go to the expense of a law-suit before division could be enforced ; but still I think the *principle* that the Revenue Authorities can be compelled to grant separate puttas, (or in other words enter into separate engagements for the $\frac{1}{100}$th part of a tree, for instance,) is a bad one.

5. There might be no instances in which I would refuse to divide, and, yet I should think it objectionable that a Court should have power to *compel* me to do so. It is merely a question whether the landlord or the Civil Court should have the power of dividing to a reasonable extent.

6. At the same time I admit that it is no doubt a hardship for a joint Puttadar who has quarrelled with his co-shares not to be able to enforce division, when they (perhaps) refuse to pay their share ; but it is always a hardship to be in partnership with rogues, and the Courts can always sell the whole property concerned and divide the proceeds if the Revenue Authorities finally refuse to divide (say) 100 fields of an acre each into 100 equal portions.

From H. S. THOMAS, Esq , Collector of South Canara, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Mangalore, 28th May 1873, No. 772.

I HAVE the honour to reply to Proceedings No. 1,073, dated 22nd June 1872.

2. The Board ask, whether Survey fields are divided, and whether a law is necessary to prevent such divisions by the Courts.

3. In South Canara there are no Survey fields, and it does not seem desired that I should report about their Canara equivalent, wargs or estates, which are divided by order of the Courts, as well as by private arrangement, in a way which is injurious to the revenues and the people, and calls for a survey.

4. With reference to the second question, I beg to state, that while I am opposed to Governmentally recognized division of Survey fields, joint puttas, and sub-receipts, I still doubt the necessity for any law to restrain the Civil Courts, for I question their having any real power to interefere. Their business and authority, I hold, is to decree between the parties and not to meddle with the Revenue Administration of the country by attempting to lay down what puttas, receipts, and so forth, are to be given by the Government Agent, the Collector. In this matter I think we have only to decline their intervention.

5. As regards policy I would have the Collectors take no cognizance of any sub-division of a survey field, leaving that to be made by the parties on their own Bonds, enforcible against each other in the Civil Courts.

6. But to this end, the Survey fields should all be sufficiently small to prevent their size being a difficulty in the way of the sub-division of property, or of the easy taking up or relinquishment of land. I would have no maximum or minimum sized fields, but uniformly divide the whole country as nearly as might be into one acre fields.

7. We cannot foresee for all time what will be the fortunes, divisions and increase of a family, or the changing value of the land it holds. A family estate should, therefore, have in it the means of easy sub-division, without confusion. Survey fields of one acre each, would allow of this being done with sufficient approximation through the Revenue Authorities simply, easily, quickly, cheaply, unmistakeably.

8. Sub-divisions of one acre fields are too minute to be desirable from a revenue point of view, and should not therefore be taken cognizance of by the Revenue Authorities

9. But if the land is sufficiently valuable to call for more minute division, it will be sufficiently valuable to bear the cost of a bond between the dividing parties.

10. When sub-divided by a bond between the parties, the Collector should look as formerly to the puttadar alone for the whole assessment, and collect it from him, if necessary, in the usual way, the whole Survey field being responsible for the demand.

11. The field-holder or land-lord would have no difficulty about collecting his rent from his tenant ; and the tenant who had paid his rent, and yet found the whole field being sold for arrears of revenue, could save himself in such an extreme and exceptional case by purchasing the whole field for the single year's arrears thereon ; and this could never be ruinous to him, the field being a single acre and presumably a valueable acre. But if this preference is to be given him, the law which requires an auction sale will need to be modified.

12. It may seem at the first blush that the sub-division of Survey fields by legal forms enforcible only in the Civil Courts will be a hardship to ryots. But reflection will show it the reverse. Such a course will never be adopted except when circumstances have made the land attain an exceptional value ; and by tenancies at will, or at varying periods, and varying rates, the ryot can thus get the full value out of his land.

13. This system, though not compulsory, is freely followed in South Canara, with advantage, and would doubtless be more general elsewhere if Governmental sub-divisions of Survey fields were disallowed

14. Without such rigidity the advantages of the survey must soon pass away, and confusion, uncertainty, and litigation take their place.

15. The absence of joint puttas and sub-receipts will also give an absence of intricacy, and an absence consequently of opportunity of fraud, and fear of fraud, in the tenures from Government, and the one acre fields would give the survey an elasticity that would make it suitable to all times and circumstances.

16. As to how and when the present varying Survey fields should be divided into approximate one acre fields, is a question for the Survey Department, which will be in a better position to say whether the sub-division should be introduced simultaneously in all places, or only when and where it may be sought from time to time. This rule, however, should obtain that no Survey fields should on any account be re-distributed into any but fields of as nearly, as possible, one acre each.

17. While on the subject, I would commend the Bombay iron boundary marks, and their better distinctiveness of village boundaries.

Exd. G. A. Turton.

No. 1,073.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 22nd June 1872.

Read the following letter from J. D. ROBINSON, Esq., Collector of North Arcot, to the Secretary to the Board of Revenue, dated Chittoor, 20th February 1872, No. 69 :—

I HAVE the honour to request instructions on the following subject :—

2. The form of Kachayet or Receipt, circulated with the Board's Proceedings dated 14th March 1866, No. 1,749, is unquestionably an improvement upon the old form, No. 19, of the Village Manual in this respect that it shows from whom the Government revenue is actually collected, and at the same time specifies the name of the puttahdar on account of whose puttah such payment is made ; but neither of these forms provides against abuse of authority on the part of the village-officers entrusted with the duty of collections. It thus becomes a matter of difficulty to prove a charge of embezzlement against any village-officer who may misappropriate a portion of the dues collected by him from any one of the several persons interested in a joint-holding, but who is not in possession of the puttah or the receipt. In such cases, if the collecting officer misappropriates the money by omitting to credit it in the Tandal account, there will practically be no evidence to connect him with the charge, unless, indeed, the ryot take the precaution of making payment in the presence of witnesses. Even then, the officer trying a case of this kind will generally find it difficult to credit the statements of such witnesses, for the simple reason that such evidence is always suspicious because easily concocted, and that irregularities of this nature are not likely to be committed in the presence of witnesses.

3. Thus, under the present system, the ryot will generally go to the wall in the long run, and there is no safeguard against an arrear of revenue once discharged by him being demanded and collected from him half a dozen times over. These remarks have been called forth by a report from the Tahsildar of Wallajah Taluq, bringing to my notice the difficulty he has encountered in his tours of collection in adjusting the claims of joint-puttahdars who, holding neither puttah nor receipt under the present system, allege payments which the village-officers do not admit.

4. To remedy this state of things the Tahsildar proposes that each of the joint-puttahdars, with the exception of the one who holds the puttah and gets the receipt, should be furnished with a separate receipt-book marked with sub-number as may be done in sub-divisions of survey-fields, which are distinguished by sub-numbers, and that the payments posted in such separate sub-receipts should be transferred to the original receipt whenever it is presented by its holder to have his own payments entered in it.

5. This suggestion, if adopted, would appear to provide a remedy, but does, in fact, create fresh complications.

6. If we cannot recognize the sub-division of fields which must follow on the breaking up of joint-holdings and the issue of separate puttahs in the names of the several joint-puttahdars, neither could we grant sub-receipts, as, by so doing, we should be recognizing the individual share of each of such joint-puttahdars. On the other hand, such sub-receipts, if granted, must sooner or later become the basis of a claim on the part of its holder to have a separate puttah for his own share of the lands entered in the joint-puttah, and that the production of such

receipts for a series of years should be accepted in support of his right to exemption from the obligation imposed upon him and the other joint-puttahdars, which makes them *jointly and severally* responsible for the total due on such joint-holdings.

7. These are difficulties which must be disposed of before the question of subreceipt is determined. Meanwhile, the more general question, namely, the subdivision of joint puttah-holdings, is presenting itself frequently in cases in which the Civil Courts order separate puttahs to be issued in the name of any one of the joint-puttahdars who may sue for it, as the voucher for his independent right in his own individual share. Practically no effect is given to decrees of the Civil Courts involving sub-division of survey-fields beyond including the name of the decreeholder in the puttah, and by so doing, multiplying the number of joint-puttahs; but the jurisdiction of the civil tribunals is closing in more and more every day on the action of Revenue-officers in all matters, and if we are to carry out such orders under that pressure it would not be just or consistent to deny the benefit to those who, though similarly circumstanced, have not cared to resort to law for the establishment of their individual rights.

8. The operation of the Hindu law of inheritance and partition naturally affords frequent opportunities to the Courts to pass decrees in favour of the sub-division of puttahs, and as population increases and land rises in value, these cases will multiply; and it is thus high time that some definite ruling be laid down to prevent the certain clash of authority which must sooner or later arise out of the present state of things.

9. The present rule is supposed to fulfil the twofold purpose of discouraging the multiplication of "pauper-holdings" and of affording an additional security for the realization of the revenue.

10. If the partition of fields were allowed there would probably, at first, be a large increase in the number of small holdings; but I do not see that this is an argument for upholding an arbitrary rule which must seriously affect the value of landed property held on joint-tenure by withholding from it the guarantee which gives the occupant-cultivator a well-defined and independent title in it, and makes it transferrable in the general market.

11. Pauper-holdings have ever been held up as a bug-bear, and the Board would find, if they looked back to the records of that time, that the so-called Nirbanda taras—restrictions which were being enforced when I first joined the district—fell hopelessly through, as should be the fate of all such crude and unnatural legislation.

12. The transfer of land from hand to hand cannot, it is generally admitted, be made too free, and any system which may hamper such transfer being unsound in principle should, it appears to me, be abandoned, whatever may be the more immediate effect of the measure.

13. As regards its second purpose, namely, affording additional security for the realization of the revenue, the present rule is, I believe, equally impolitic.

14. It is demoralizing to the agencies employed in the collection of the revenue; it sacrifices the interests of the industrious and simple-minded to the recusant and litigious, and must very generally be a check on agricultural enterprise; finally, it does not fulfil its more specific purpose as it is to its operation, that the realization of the revenue due on joint-holdings is so backward and difficult.

15. In their Proceedings dated 14th September 1870, No. 5,715, the Board observe "that every facility should be given to convert joint-properties into private estates". These remarks are equally applicable to joint-holdings other than those enjoyed on Inam tenure. The concession, if such it be, made in the Standing Order No. 136-1 (XV. of 1868), has not, it is true been taken advantage of in this district, and, when submitting my report on the result, I attributed this indifference to ignorance and other minor causes. On further observation and reflection I think the inactivity to take advantage of the order is rather due to the condition in it which makes all share-holders liable for any balance of quit-rent which may not be satisfied by the sale of the property and share of the defaulting share-holder.

16. This joint-liability, to quote the words of Government, "formed a condition precedent of the grant, and the beneficiaries have no right to complain of the incidence of one of the conditions in consideration of which the Government of the day thought fit to waive some of its rights in their favour." Further, on referring to this condition and to the difficulties attending the concession of *several* for *joint*-liability, the Government observe that they "do not see their way to the adoption of any measure which, while recognizing the individual rights of the several share-holders and their freedom from the ultimate joint-liability of all for the default of any, shall, at the same time, duly secure the stability of the public revenue".

17. Now it appears to me that these observations are inapplicable to joint-puttah holdings which differ radically from joint-inam tenures; in this that they owe their existence to the mere force of circumstance, and that in *their* case the obligation of joint-liability, of which Government speak as forming a condition precedent to the grant of favourable tenure in joint-inams, never was a condition expressed or implied.

18. Out of some supposed analogy the same principle has, in practice, been applied to both classes of joint-holdings, and thus have arisen the complications which it is now sought to remove.

19. My proposition, therefore, is that the present restrictive rule should be cancelled, and that, firstly, in all cases where a joint-holding is enjoyed in separate individual shares, each share-holder shall be entitled, on application, to receive a puttah for his share of the joint-puttah bearing a sub-number as his voucher of independent occupancy; and, secondly, that a sub-receipt shall invariably be granted to each and any of the joint-puttahdars for any instalment he may pay on account of such joint-holding, whether enjoyed in distinct shares or in undivided co-partnership.

The Collector of North Arcot brings to notice a difficulty which is experienced in connection with joint-puttahs. If one of the land-holders, who is not the custodian of the puttah and the corresponding receipt, makes a payment on account of land-assessment, no written receipt is given, and the Moniagar, to whom it is made, can afterwards deny that he has received it.

2. This can be remedied, as the Tahsildar of Wallajah has pointed out, by giving the owners of land on a joint-puttah, who are not the custodians of the puttah and receipt-book, *sub-receipt* books; but if this be done Mr. Robinson thinks the

rights of the several puttahdars to separate their land from the rest of the puttah-land must be conceded. He goes on to argue that such sub-division ought to be freely allowed.

3. The Board cannot see that granting sub-receipts will influence the question of sub-division in any way, nor can they admit the advisability of allowing any sub-division of survey-fields, such as must occur if sub-division of joint-puttahs is allowed to the extent that Mr. Robinson advocates. They doubt, moreover, whether the concession of a right to sub-divide would diminish the number of joint-puttahs materially. Their existence depends on social conditions, which no such concession could alter.

4. In future, a sub-receipt book will be given to all holders of land on joint-puttahs who want them. The entries in these sub-receipts will be transferred to the principal receipt-book when it is produced for the purpose before the village-officers by the possessor. The sub-receipts will be in the same form as the receipt, and as they will not mention the extent of the land on account of which payment is made, they will not affect the question of sub-division in any way.

5. These Proceedings will be communicated to all Collectors, in order that effect may be given to the last paragraph. Collectors will report whether any (and if so, how many) survey-fields in their districts have been sub-divided under orders from the Civil Courts, and whether they think a law necessary to prevent such sub-division. If it becomes at all general the labour of registering holdings and keeping accounts will be enormously increased and some of the principal results of the survey (where that department has been at work) will be obliterated.

(A true Copy and Extract.)

(Signed) J. GROSE,
Secretary.

(True Copy.)

(Signed) J. T. MAYNE,
First Assistant.

To all Collectors.

Exd. F. R. Bantleman.

1872.
Board of Revenue,
MADRAS.

PROCEEDINGS, 22ND JUNE 1872, No. 1,073.

Rec. 3/7/72 Encl. 12 Copies

Received

JUNE.
No. 1,073.

Holders of land in Joint-puttahs.—Collector of North Arcot informed that sub-receipt books should, in future, be given to—if they desire them. These Proceedings communicated to all Collectors, and report requested as to the number of survey-fields in the districts, which have been sub-divided under orders from Civil Courts, and necessity for a law to prevent such sub-division.

Rec'd 1885

29

No. 2,276.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 17th August 1874.

Read again Board's Proceedings, dated 22nd June 1872, No. 1,073.

Read also the following replies of Collectors to Board's Proceedings, dated 22nd June 1872, No. 1,073:—

Letter from the Collector	of Ganjam,	dated	2nd	August	1873,	No. 1,768.
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THERE are two questions involved in these papers, viz.:—

(1.) The extent to which under the Madras Ryotwari system it is expedient to allow the sub-division of fields.

(2.) The power of the Revenue Authorities to refuse to issue separate puttahs for portions of fields smaller than any minimum which may be prescribed.

2. The subject is one of great importance as regards the labor of registering holdings and keeping village accounts, the security of the public revenue, the permanence of the results of the survey, and the resort to coercive processes.

3. The last point is dwelt on in Board's Proceedings, dated 1st April 1874, No. 754, where the sub-division of holdings and the increase in the number of joint holdings, which results in part from the refusal to issue separate puttahs for portions of a survey field, are stated as amongst the causes of the increased resort to coercive processes which excite apprehension. It is shown that the average amount paid for a single puttah is decreasing, whilst the number of joint holdings

is increasing much faster than that of single holdings. Many of the Collectors point out in the reports submitted to Government with those Proceedings, that pauper holdings and joint puttahs are fruitful causes of arrears.

4. In the letter recorded in Board's Proceedings, dated 22nd June 1872, No. 1,073, Mr. J. D. Robinson, then Collector of North Arcot, urged the expediency of allowing unrestricted sub-division, on the ground that it would make the transfer of land freer, that it was in accordance with the conditions of the people, and that before long the Courts would compel it. As regards the security of the public revenue obtained by issuing joint puttahs, he argued that this security was gained at the expense of demoralizing the agencies employed in collecting revenue, of sacrificing the industrious and honest to the idle and dishonest, and of imposing a check on agricultural enterprise, whilst it was not a very valuable security, inasmuch as the realization of revenue due on joint holdings is always backward and difficult.

5. The Board devised a remedy for the chief evil of which Mr. J. D. Robinson complained, and called on Collectors for a report as to the extent to which fields had been sub-divided by decrees of Court, and the expediency of legislating to prevent such sub-divisions.

6. Their replies are now before the Board; but whilst they were being received, the action of the Courts, which was only apprehended by Mr. J. D. Robinson, was actually taken by Subordinate Courts in Chingleput which expressly decreed the sub-division of survey fields. The matter was reported to Government in Board's Proceedings, dated 19th May 1873, No. 832, in which the Board stated the arguments *pro* and *con* as regards the enactment for Madras of a law to prevent sub-division of fields like that in force in Bombay and contained in Act I. of 1865, Section 45 (Bombay), and promised to address Government again on the subject when all the replies to their Proceedings of the 22nd June 1872, No. 1,073, had been received.

7. The balance of opinion amongst Collectors is in favor of allowing sub-division of fields, and of giving separate puttahs for such sub-division. The Board concur in this view, but they believe that the Ryotwari system, especially as regards account, renders it necessary to prescribe a minimum beyond which sub-division with concomitant separate puttahs, accounts, and registration shall not be permitted. Survey fields cannot be taken as the *minimum divisibile*, because they vary so much in size. The Board would fix a minimum of one acre in *dry* land and half an acre in *wet* land. The survey numbers must be retained as they are, sub-numbers being given to sub-divisions. If this is done, the results of the field survey will not be lost.

8. With regard to the necessity of fortifying this view by legislation the Board are in doubt. If the Courts can compel the sub-division of survey fields under existing circumstances, they will, no doubt, be able to compel the sub-division of the minimum if a minimum is fixed by Government as proposed by the Board. One of the cases in which a Munsiff's Court in Chingleput ordered a sub-division of a survey field has been carried before the District Court on appeal (Board's Proceedings, dated 8th December 1873, No. 2,506,) and the Board propose, if necessary, to carry it before the High Court on Special Appeal. If the result of

the suit is to show that Civil Courts can compel the Revenue Authorities to issue separate puttas for sub-divisions of survey fields, the Board think legislation must be resorted to.

(A true Extract.)

J Grote

Secretary.

To the Acting Secretary to Government, Revenue Department,
with Board's Proceedings, dated 22nd June 1874, No. 1,073,
and a file of Collectors' replies.

Copy to all Collectors.
,, to the Director of Revenue Settlement.
,, to the Superintendent of Revenue Survey.

For orders.

Boards. Boe^ds. 17^th August 74. No 2276.

The majority of Collectors & the Board are of opinion that the subdivision of fields should be freely allowed.

The Board however would fix a minimum below which there should be no division.

2. The questions for decision are two in number

(1) Can subdivision be legally refused?

(2) If so should it be refused?

3. The

⊗ 1 acre in dry land
½ an acre in Wet land.

No 2276
Rev. 1874.

Board of Revenue, MADRAS.

PROCEEDINGS, 17TH AUGUST 1874, No. 2,276.

Despt 7 Sept 74

Encl 2

To Bds 1385 - 22 Novr 1874

Received 8th Sept 74

AUGUST.

No. 2,276.

Survey fields—which have been sub-divided under orders from Civil Courts.—Replies of Collectors to Board's Proceedings, dated 22nd June 1872, No. 1,073, regarding extent to which fields have been sub-divided, and necessity for a law to prevent such sub-division, submitted to Government with remarks.

a question is now being decided by the Courts as to whether Government has directed a subdivision against which an appeal is being carried to the higher Courts.

In Bombay they foresaw this difficulty & provided in their Survey Act against the subdivision of a survey number or recognized share of a Number."

& 1865. S. 45

4. In the (2)nd question orders are requested

The arguments against allowing subdivision

& Govr. Lushington. Collector of Malabar para 9.

come under one head

(3) "increase of work" while for it it is reported that

"the Revenue System must adapt itself to the conditions & exigencies of landed property" and that the opposite system "must seriously affect the value of landed property" because

"an unfortunate widow "owns in the fullest "extent of the word 3/4 of "a Survey field & who "punctually pays the "State demand on that "portion may at any "moment lose her land "sold up on account of "arrears having accrued "on the 1/4 of the field in "the occupation of another."

Govr. Sullivan. S Arct. para 5.

5. Every Revenue officer knows that the above is no fanciful picture & the Lordships &

the present Instructions will be found very fully described in Bor. J. D. Robinson's letter in Bds Brfs: 22nd June 72 No: 1073.

Lastly the Board have recently given reasons for "regarding the refusal to subdivide, or issue a separate pattah for a portion of a Survey field, as one among the "the causes of the increased resort "to coercive processes" for the collection of the Revenue.

Sal

For orders

I have always advocated the recognition of the

Bds Brfs. 1st April 74 No 754. now in circulation Sal

- Divisions. Landed property is not immovable more than any other property and cannot be protected from the "ups & downs" of life. When it becomes the interest of a landowner to part with a portion of his land it cannot be our interest to prevent him from doing so. and to keep an unwilling & unforeseen joint tenancy

I would therefore suggest that Divisions as freely as transfers & alienations. but the parties concerned should be required to put up Pucca boundary marks so as to prevent future confusion & Disputes & to allow of the assessment being thereby adjusted

J. D. S 19.

Revenue Department.

No. 1385.

Proceedings of the Madras Government
Under date the 2nd October 1874.
Nov.

Read the following
Pros. of the Board of Revenue

Submitting replies of Collectors to B/s Pros. regarding extent to which survey fields have been sub-divided & necessity for a law to prevent such sub-division. } H. E. 17th Aug. 1874, No. 2276.

The Govt. concur with the Board in considering that the sub-division of land should be freely allowed. They would therefore recognise sub-divisions as readily as transfers and relinquishments, but the parties concerned should be required to put up durable boundary marks

32/

Revenue for Orders

Sanctioned agreeably with the Pros. No measure can legally be proposed

Inasmuch as experience among Bombay & Calcutta ryots is well acquainted with the working of these Pattas & a man are apathetic & allege with obvious truth that transaction of life & persons tampered & frauds wrong of the race - the Govt may with safety & wisdom [illegible] 22/10

I agree. To place a limit upon sub-division is to expect to restrict the transfer of land, which is detrimental to the progress of agriculture, and opposed to the accepted principles 24/10

R 24/10/74
Oct 24/74

I 81
30/10
30/10

marks so as to prevent future confusion and dispute, and to allow of the assessment being properly apportioned.

2. It is doubtful whether any minimum can legally be fixed and at present the Govt do not consider that the necessity of prescribing one has been established.

34/

(without this distinguishing mark of the Survey Dept)

14 To the Board of Revenue Dec 12 Nov
13. The Director of Pub Instr
13. The Supt of Police

60/4

G 0

Sub Division of Survey
fields under orders from
Civil Courts

No. 5. Read the following Proceedings of the Board of Revenue, dated 17th August 1874, No. 2,276 :—

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No. 6. ORDER THEREON, 2nd Nove

Miscellaneous.

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without the distinctive mark of the Surve Department, so as to prevent future confusion and dispute, and allow of the assessment being properly apportioned.

2. It is doubtful whether any minimum can legally be fixed, and at present the Government do not consider that the necessity of prescribing one has been established.

(True Extract.)

(Signed) C. G. MASTER,
Acting Secretary to Government.

To the Board of Revenue.
„ the Director of Revenue Settlement.
„ the Superintendent of Revenue Survey.

Exd. A. Grubert.

Original.

Govt. of [1874] Madras

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated November 2nd.

Recd. *Encl.*

G. O., 2nd November 1874, No. 1,385.

NOVEMBER
Nos. 5-6.

Sub-division of Survey Fields.—Concurring with the Board in considering that the—should be freely allowed, but requiring the parties concerned to put up durable boundary marks without the distinctive mark of the Survey Department, and observing that the necessity of prescribing a minimum has not been established.