428

M.R.O. 1—20,002—12-8-65.

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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. / B.P. No.	428	Press / ~~Mis.~~
Dated	10.4.	1874 ~~196~~

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
10th April 1874.

No. 47. Read the following Proceedings of the Board of Revenue, dated 19th February 1874, No. 366.

Read the following letters:—

From G. D. LEMAN, Esq., Collector of the Kistna District, to H. E. STOKES, Esq., Acting Sub-Secretary to the Board of Revenue, dated Masulipatam, 27th September 1873, No. 1,469.

With reference to Board's Proceedings, No. 2,449, dated 20th December 1872, I have the honour to forward, for the information of the Board, copies of judgment and decree, in Original Suit No. 4 of 1873, on the file of the Subordinate Court at Masulipatam, to which it was transferred.

2. The Court dismissed the claim of M. Ettirajulu Pillay to the Lanka land at Bezwada.

3. The plaintiff has paid the Government costs, amounting to Rupees 15-10-0.

Enclosures Nos. 1 and 2.—Copies of Judgment and Decree.

From G. D. LEMAN, Esq., Collector of the Kistna District, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Masulipatam, 6th January 1874, No. 29.

I have the honour to reply to Board's Official Memorandum, No. 1,632, dated 18th October 1873, that Mount Ettirajulu Pillay was put in possession of the Lanka land about which he brought a suit, and that he enclosed it, that as soon as Mr. Boswell refused to give his sanction to the gift of the land to him by Mr. Grahame, he was, as was customary; considered to have forfeited his possession, it being by Board's order,* a possession conditional only on the Collector's sanction; that subsequently when the Board passed their Order† No. 3,122 of 1871, which concluded with the words "the Board presume that the Collector does not contemplate the ejectment of petitioner except by due course of law," he applied for permission to cultivate, which was denied, as he was told he was not in possession, and that then he proceeded to impound cattle straying on it, and was fined by the Head-Assistant Magistrate.

* Standing Order No. 150, Clause 11.

† Board's endorsement on Ettirajulu Pillay's Appeal.

2. Ettirajulu Pillay has now promised me to waive all claim to this land as it is wanted by Government for the protection of the anicut; but he claims Rupees 75, his expenses in enclosing and marking it out when it was first given him by the Head-Assistant Collector; which is all that he ever did to it.

3. I propose that Government be asked to sanction the payment of this sum of money to him, that the matter may be settled; it may be said that as his possession was never confirmed, he enclosed and spent money on the land at his own risk, and this no doubt would be the view I should take in an ordinary case; but here it is really important to keep the land uncultivated, and if, as the Board would seem to think, Mr. Boswell's order was not such as to oust him, then no doubt, he

can, if he pleases, give Government a good deal of trouble and put them to some expense (it is worth 200 or 300 Rupees an acre) to recover possession.

4. I have not made any enquiry into the way he computes his expenses at Rupees 75; whatever boundary was there, was washed away with the freshes of the river in the succeeding hot weather.

5. Pichayya's claim to land in lieu of his Inam taken for a channel is not yet settled, nor can I get him to take any equitable offer.

6. He has never been put in possession of Lanka land, nor has the Government ever given their sanction to his having it.

7. He has to get compensation for 4·94 acres taken in the year 1869.

8. He asks for land in Bezwada. All Bezwada Government land is putta land, and there is none save this lanka, which cannot be given.

9. It may be said that the piece is so small it can do no harm; but there are thirteen other Inamdars besides Ettirajulu Pillay whose claims require to be satisfied, and if it is given to one, it must be given to all.

10. He will not take waste land out of Bezwada.

11. If he cannot have land, he will take Rupees 500 as compensation, he says. His loss is only, as the title-deed recites, the Government revenue on his 4·94 acres of land; the Government revenue is only Rupees 1-12-0 per acre per annum, which, at twenty years' purchase, gives Rupees 172-14-8.

12. I have offered him this, but he will not take it, and says he will sue the Government for his losses.

13. I think he had better be left to do so

Submitted for the orders of Government.

2. The land in dispute in this case Acres 6·99 newly formed Lanka belonging to Government was granted in 1871 by the Head-Assistant Collector to plaintiff Ettirajulu Pillay or rather to the firm bearing his name. Though it is usual to sell such land it was assigned under the Darkast rules subject to the confirmation of the Collector or other officer making the annual settlement. The grant was cancelled by the Collector previous to the issue of putta. Plaintiff appealed to the Board who passed the following order:—"The Board consider the Collector assigns sufficient grounds for his order which however does not of course contemplate the ejection of petitioner except in due course of law."

3. In July 1872 plaintiff being still in possession impounded some cattle found trespassing on the land. The owners complained to the Head-Assistant Magistrate who ignoring plaintiff's possession, apparently because he regarded it as illegal, ordered him to pay the fines and make good the loss to complainants. Upon this, plaintiff instituted a suit to establish his right to the land. On behalf of the defendant, the Head-Assistant Collector, it was pleaded that plaintiff had no right to the land but that he had not been ejected and that the order complained of was passed by defendant as a Magistrate.

4. The suit was dismissed with costs on the grounds that as the order complained of was a judicial act done in good faith the defendant was protected by

Act XVIII. of 1850 and that as plaintiff's possession of the land had never been disturbed there was no cause to sue for its restoration.

5. The result is that matters now stand as they did before the institution of the suit. The land belongs to Government and is required* by the Public Works Department for the conservancy of the Kistna anicut. Though plaintiff holds possession, without right or title he cannot be ejected except by a regular suit. It appears however from the Collector's second letter that Ettirajulu Pillay is willing to relinquish the land on payment of Rupees 75 the amount he says he spent in marking out the land when it was first assigned to him. Though the Board are of opinion that Ettirajulu Pillay has no right to the sum claimed they agree with the Collector in thinking it expedient to accept the offer. They accordingly recommend that payment of the amount be sanctioned as a compromise. The land is Acres 6·99 in extent and is valued at about 200 or 300 Rupees an acre.

*Board's Proceedings, dated 14th August 1873, Miscellaneous No. 5,131.

6. In regard to the claim of Pichayya to compensation for Inam land taken up for public purposes the Board desire further information. He claims Rupees 500 and declines to accept Rupees 172-14-8 (twenty years assessment) offered by the Collector. It is not clear that twenty years assessment represents the full value of the land.

7. The Collector is requested to report—(1) whether the Inam consisted of a mere assignment of Government revenue, or included also the proprietary right in the land; (2) the value of the land as ascertained from sales of similar land in the neighbourhood.

No. 48. Order thereon, 10th April 1874, No. 428.

Miscellaneous.

The Government sanction the payment of Rs. 75 on the understanding that that amount was expended *bonâ fide* on the land before its grant was cancelled by the Collector.

2. They do this, not to induce the abandonment of an untenable claim, but, as an act of grace, and the transaction must take a form which shall prevent all misconception on this point and shall not in any way compromise the absolute right of the Government to dispose of the land as they deem proper.

(True Extract.)

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

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

Exd. G. A. Turton.

Govt. of 1874 Edition.

REVENUE.

To

The BOARD OF REVENUE,

&c., &c., &c.

Dated April 16th.

Recd.

Encl.

G. O., 10th April 1874, No. 425.

APRIL.

Nos. 47-48.

Ceylon. Lands near Kistna delta.—Sanctions payment to one Ettirajulu Pillai of Rs. 75 conditionally and for reasons stated on account of —.

&c.

No. 366.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 19th February 1874.

Read the following letters:—

From G. D. LEMAN, Esq., Collector of the Kistna District, to H. E. STOKES, Esq., Acting Sub-Secretary to the Board of Revenue, dated Masulipatam, 27th September 1873, No. 1,469.

WITH reference to Board's Proceedings, No. 2,440, dated 20th December 1872, I have the honour to forward, for the information of the Board, copies of judgment and decree, in Original Suit No. 4 of 1873, on the file of the Subordinate Court at Masulipatam, to which it was transferred.

2. The Court dismissed the claim of M. Ettirajulu Pillay to the Lanka land at Bezwada.

3. The plaintiff has paid the Government costs, amounting to Rupees 15-10-0.

ENCLOSURES Nos. 1 and 2.—Copies of Judgment and Decree.

From G. D. LEMAN, Esq., Collector of the Kistna District, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Masulipatam, 6th January 1874, No. 29.

I HAVE the honour to reply to Board's Official Memorandum, No. 1,632, dated 18th October 1873, that Mount Ettirajulu Pillay was put in possession of the Lanka land about which he brought a suit, and that he enclosed it, that as soon as Mr. Boswell refused to give his sanction to the gift of the land to him by Mr. Grahame, he was, as was customary, considered to have forfeited his possession, it being by Board's order,* a possession conditional only on the Collector's sanction; that subsequently whent he Board passed their Order † No. 3,122 of 1871, which concluded with the words "the Board presume that the Collector does not contemplate the ejectment of petitioner except by due course of law," he applied for permission to cultivate, which was denied, as he was told he was not in possession, and that then he proceeded to impound cattle straying on it, and was fined by the Head-Assistant Magistrate.

* Standing Order No. 150, Clause 11.

† Board's endorsement on Ettirajulu Pillay's Appeal.

2. Ettirajulu Pillay has now promised me to waive all claim to this land as it is wanted by Government for the protection of the anicut; but he claims Rupees 75, his expenses in enclosing and marking it out when it was first given him by the Head-Assistant Collector; which is all that he ever did to it.

3. I propose that Government be asked to sanction the payment of this sum of money to him, that the matter may be settled; it may be said that as his possession was never confirmed, he enclosed and spent money on the land at his own risk, and this no doubt would be the view I should take in an ordinary case; but here it is really important to keep the land uncultivated, and if, as the Board would seem to think, Mr. Boswell's order was not such as to oust him, then no doubt, he can, if he pleases, give Government a good deal of trouble and put them to some expense (it is worth 200 or 300 Rupees an acre) to recover possession.

4. I have not made any enquiry into the way he computes his expenses at Rupees 75; whatever boundary was there, was washed away with the freshes of the river in the succeeding hot weather.

5. Pichayya's claim to land in lieu of his Inam taken for a channel is not yet settled, nor can I get him to take any equitable offer.

6. He has never been put in possession of Lanka land, nor has the Government ever given their sanction to his having it.

7. He has to get compensation for 4·94 acres taken in the year 1869.

8. He asks for land in Bezwada. All Bezwada Government land is putta land, and there is none save this lanka, which cannot be given.

9. It may be said that the piece is so small it can do no harm; but there are thirteen other Inamdars besides Ettirajulu Pillay whose claims require to be satisfied, and if it is given to one, it must be given to all.

10. He will not take waste land out of Bezwada.

11. If he cannot have land, he will take Rupees 500 as compensation, he says. His loss is only, as the title-deed recites, the Government revenue on his 4·94 acres of land; the Government revenue is only Rupees 1-12-0 per acre per annum, which, at twenty years' purchase, gives Rupees 172-14-8.

12. I have offered him this, but he will not take it, and says he will sue the Government for his losses.

13. I think he had better be left to do so.

SUBMITTED for the orders of Government.

2. The land in dispute in this case Acres 6·99 newly ~~found~~ *farmed* Lanka belonging to Government as granted in 1871 by the Head Assistant Collector to plaintiff Ettirajulu Pillay or rather to the firm bearing his name. Though it is usual to sell such land it was assigned under the Darkast rules subject to the confirmation of the Collector or other officer making the annual settlement. The grant was cancelled by the Collector previous to the issue of putta. Plaintiff appealed to the Board who passed the following order:—"The Board consider the Collector assigns sufficient grounds for his order which however does not of course contemplate the ejection of petitioner except in due course of law."

3. In July 1872 plaintiff being still in possession impounded some cattle found trespassing on the land. The owners complained to the Head-Assistant Magistrate who ignoring plaintiff's possession, apparently because he regarded it as illegal, ordered him to pay the fines and make good the loss to complainants. Upon this, plaintiff instituted a suit to establish his right to the land. On behalf of the defendant, the Head-Assistant Collector, it was pleaded that plaintiff had no right to the land but that he had not been ejected and that the order complained of was passed by defendant as a Magistrate.

4. The suit was dismissed with costs on the grounds that as the order complained of was a judicial act done in good faith the defendant was protected by Act XVIII. of 1850 and that as plaintiff's possession of the land had never been disturbed there was no cause to sue for its restoration.

429/4

5. The result is that matters now stand as they did before the institution of the suit. The land belongs to Government and is required* by the Public Works Department for the conservancy of the Kistna anicut. Though plaintiff holds possession, without right or title he cannot be ejected except by a regular suit. It appears however from the Collector's second letter that Ettirajulu Pillay is willing to relinquish the land on payment of Rupees 75 the amount he says he spent in marking out the land when it was first assigned to him. Though the Board are of opinion that Ettirajulu Pillay has no right to the sum claimed they agree with the Collector in thinking it expedient to accept the offer. They accordingly recommend that payment of the amount be sanctioned as a compromise. The land is Acres 6·99 in extent and is valued at about 200 or 300 Rupees an acre.

*Board's Proceedings, dated 14th August 1873, Miscellaneous No. 5,131.

6. In regard to the claim of Pichayya to compensation for Inam land taken up for public purposes the Board desire further information. He claims Rupees 500 and declines to accept Rupees 172-14-8 (twenty years assessment) offered by the Collector. It is not clear that twenty years assessment represents the full value of the land.

7. The Collector is requested to report—(1) whether the Inam consisted of a mere assignment of Government revenue, or included also the proprietary right in the land; (2) the value of the land as ascertained from sales of similar land in the neighbourhood.

(True Copies and Extract.)

Secretary.

To the Secretary to Government, Revenue Department,
with two original enclosures, to be returned.
" the Collector of the Kistna District.

Exd. G. A. Turton.

No 428 Revenue Consultation
dated 10 April 1874
Read G.O. No 366 dated 19 Feb 1874

The Collector of Kistna has reported that the land mentioned in the margin was assigned to Pichayya on the 15th May 1872 as Inam land, and that the Public Works Department have taken possession of it for the purpose of conservancy of the Kistna anicut. He has also stated that Pichayya has applied for compensation for the land, which he alleges to be worth Rupees 75, and has requested that the amount may be paid to him.

2. The Board of Revenue are of opinion that the claim is not admissible, as the land was assigned to Pichayya on the express condition that he should have no claim to compensation in the event of the land being required for public purposes.

3. The Board of Revenue therefore recommend that the claim be rejected.

4. The Board of Revenue request that the Collector may be informed that the payment of Rs 75 cannot be sanctioned.

5. The Board of Revenue request that the Collector may be informed that the payment of Rs 75 cannot be sanctioned. A receipt should however be taken.

Ordered accordingly.

(Signed) C. B. Saunders
Actg Secy to Govt

To
The Collector of Kistna

20.

Revenue 1874. Depte

Board of Revenue,

MADRAS.

No 674

PROCEEDINGS, 19TH FEBRUARY 1874. No. 366.

Dep 26 Febr 74

Encl. 2

Received 27/

FEBRUARY.

No. 366.

Lanka land—in Kistna District, belonging to Government, but now in possession of M. Ettirajulu and required by Public Works Department for conservancy of Kistna anicut.—Government recommended to sanction payment of Rupees 75 alleged to have been spent on — by Ettirajulu. Further information requested from Collector regarding claim of Pichayya to compensation for Inam land taken up for public purposes.

S.O. No 428-10 April/74.

47

C 4th March/74. R 13 - RC Extracts.
Rec'd in Secretariat on the 3rd March 1874

Leake

The Land mentd Judge
to S. Pillai in April 91.
by the Head Assistant.
The Grant was refused
at the time & an appeal
presented to the Collector
who called on but for
Report. Received Papers
for the 1st time on the
Sitting of Saturday
the 24th June 92 the
following Sunday
Petn filed to Stay
Sale. The disputed
land was demarcated
with stones. Afterwards
the Respondent
attempted to cultivate
or build on it but was
prevented.
Reported to the
Collector (Mr. Brodie)
who in Respt Interest
cancelled the Grant.
Before this order was
passed S. Pillai asked
time in which to file
an Appeal

there was "any objection" to his "cultivating". & told him I could not sanction his doing so. The Judge pointed out that E Pillai was clearly not interested that he had accepted "full title & possession."

E. Pillai appealed to the Board but in the mean time exercised his act of possession & sold the right of ripping over the whole number including this land.

The Board made him the Endowment fixed by the Collector in which they assumed he was in possession. Their explanation was founded on E. Pillais [illegible] & consented to withdraw their objection leaving Govt to the Collector being ignorant of the fact.

When E Pillai

[illegible] the Endowment

* page 10

† I speak here from memory & guess that I should not sold the right in another Case on purpose to contest E Pillais appeal to possession &c.

James M Bane & the Salvidar had been Elected Commissioners. They believed Pereira was dead to the District & was ignorant of the fact and the acting Salvidar was a man who had been a Constable & was letting of Revenue professional work.

Relying on [illegible] certain Jaffna Men & the Board endorsed E. Pillai's petition on the land putting some sort of fence & cooled of the cattle herd[illegible] before he had sold the right of ripping. Pending investigation they selves a Temporary policy was adopted but by my Selves I at once fined him as complaint made that he had trespassed

Cattle. Mc Donald
was last heard
from at Natchitoches
La.