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(2) Date of repair 17-10-66
(3) Initials of the Referencer W. G. M.

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	792	Press
B.P. No.		Mis.
Dated	26.6.1874	196

Not to be folded or roughly handled

No. 250. Read the following Proceeds
May 1874, No. 1,054:—

Read the following letter from W. D. H.
to J. GROSE, Esq., Secretary
pau, 28th March 1874, No. 75.

I HAVE the honor to forward a copy
Court of Cuddapah in a suit against a Rev
the public expense was sanctioned by the
dated 5th November 1872.

2. A decree has been passed in fav
by him of Annas 6 Pies 7, arrears of rever
Inspector, who is the sixth defendant, an
tiff's costs.

3. The defaulter Venkamma held
her land, except seven fields, to differ
amounted to Rupees 22-14-7. The land
value except No. 27, and this land only
made, it was bought in by Government at
lands in Venkamma's name were not
They should have been put up for sale and
purchased by others were sold for the arre.
at a Court sale by the plaintiff in this
against No. 17 amounted to Annas 6 Pies 7.
The Court has evidently not been misl
Annas 6 Pies 7, and an explanation that the
have made no difference in the decree, fo
judgment "The reason for these lands havi
ing to some practice obtaining in the Reve.
defaulter's putte is liable to be sold for arr
a practice, if it exists, has received the san
stands, contains no such provision." It app
Inspector had made a mistake in his evid
which Nos. 17 and 111 had been sold, and
his duty in not managing to correct the in
Court would not hear of any arrears except

4. In Board's Proceedings No. 3,374
doubtful point whether all the land in a
than that on which arrears are due, can be
ally the doubt has never been entertained
attached and sold without reference to th
sold.

5. The time for appealing against this
to the amount of the arrears appeared to me
be rectified by a petition for a review of judg
to make sure that the arrears were as I have

the Board of Revenue, dated 6th

Y, Esq., Collector of Cuddapah,
Board of Revenue, dated Voil.

judgment passed by the Sub
pector, the defence of which at
their Proceedings, No. 2,137,

sist, subject to the payment
field No. 17, and the Revenue
endants are to bear the plain-

r several fields. She sold all
ons. The arrears against her
e retained was considered of no
up for sale. As no bids were
ual price of Annas 4. The other
eded against, and this was wrong.
ht in, it necessary, before the lands
The lands of Venkamma purchased
are Nos. 17 and 111. The arrears
ainst No. 111 there were no arrears.
is to the amount of arrears being
and were Rupees 22 and odd would
e Court says in paragraph 3 of the
been put up for sale is that accord-
partment, any land embraced in a
f sist. I am not aware that such
of the law, which, as it at present
ed to me at first that the Revenue
e as to the amount of arrears for
e Government Vakil had failed to
ke. But it is quite clear that the
e against the land in dispute
ed 6th June 1870. I find it is a
putte, or any portion of it other
responsible for the arrears. Practi-
this district, and lands have been
ears being due for the very fields

e has passed. The judgment as
based on a mistake which might
ut before presenting it I wished
y a reference to the taluq. On

3/79
22
No. 1,054.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 6th May 1874.

Read the following letter from W. D. HORSLEY, Esq., Collector of Cuddapah, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Voilpaul, 28th March 1874, No. 75:—

I HAVE the honour to forward a copy of the judgment passed by the Sub-Court of Cuddapah in a suit against a Revenue Inspector, the defence of which at the public expense was sanctioned by the Board in their Proceedings, No. 8, 1872, dated November 5th, 1872.

2. A decree has been passed in favour of plaintiff, subject to the payment by him of Annas 6 Pies 7 arrears of revenue due on field No. 17, and the Revenue Inspector who is the sixth defendant and other defendants are to bear the plaintiff's costs.

3. The defaulter Venkamma held a putta for several fields. She sold all her land, except seven fields, to different persons. The arrears against her amounted to Rupees 22-14-7. The land which she retained was considered of no value except No. 27, and this land only was put up for sale. As no bids were made, it was bought in by Government at the usual price of Annas 4. The other lands in Venkamma's name were not proceeded against, and this was wrong. They should have been put up for sale and bought in, if necessary, before the lands purchased by others were sold for the arrears. The lands of Venkamma purchased at a Court sale by the plaintiff in this suit are Nos. 17 and 111. The arrears against No. 17 amounted to Annas 6 Pies 7. Against No. 111 there were no arrears. The Court has evidently not been misled as to the amount of arrears being Annas 6 Pies 7, and an explanation that the arrears were Rupees 22 and odd would have made no difference in the decree, for the Court says in paragraph 8 of the judgement "The reason for these lands having been put up for sale is that according to some practice obtaining in the Revenue Department, any land embraced in a defaulter's putta is liable to be sold for arrears of sist. I am not aware that such a practice, if it exists, has received the sanction of the law, which, as it at present stands, contains no such provision." It appeared to me at first that the Revenue Inspector had made a mistake in his evidence as to the amount of arrears for which Nos. 17 and 111 had been sold, and the Government Vakil had failed in his duty in not managing to correct the mistake. But it is quite clear that the Court would not hear of any arrears except those against the land in dispute.

4. In Board's Proceedings No. 3,874, dated June 6th, 1870, I find it is a doubtful point whether all the land in a ryot's putta, or any portion of it other than that on which arrears are due, can be held responsible for the arrears. Practically the doubt has never been entertained in this district, and lands have been attached and sold without reference to the arrears being due for the very fields sold.

5. The time for appealing against this decree has passed. The judgment as to the amount of the arrears appeared to me to be based on a mistake which might be rectified by a petition for a review of judgment, but before presenting it I wished to make sure that the arrears were as I have stated by a reference to the taluq. On

looking again at the judgment I find that there is no mistake of fact, but that an important question is raised as to the construction to be placed on Section 2, Act II. of 1864, which might very properly have been made a subject of appeal.

Enclosure No. 1.—Copy of Judgment.

In this case plaintiff in 1870 purchased at a Court sale certain land included in the putta of first defendant, but he neglected to apply for a transfer of putta. In 1871 the land was sold under Act II. of 1864, for arrears of revenue due by the registered holder. Plaintiff then sued to have the revenue sale cancelled. The Revenue Inspector who conducted the sale was made a defendant (sixth). On his behalf it was contended with reference to the provisions of Act II. of 1864, and Section 9, Regulation XXVI. of 1862, that the sale was valid. The Court holding that the revenue sale was illegal has cancelled it and decreed the land to plaintiff, subject to the payment of Rupees 0-6-7, arrears found to be due on the land actually sold. The amount due on the whole putta was Rupees 22-14-7.

2. The Board believe that the decision is erroneous, but it is now too late to appeal. They resolve to submit the case for the information of Government in reference to the correspondence noted in the margin, as showing that there is danger because the law is not clear. 3. The Collector should have reported the result of the suit in time to admit of an appeal being made.

(A true Copy and Extract.)

Secretary.

To the Acting Secretary to Government, Revenue Department,
the Collector of Cuddalore.

with one original enclosure to be returned.

Edw. W. H. French.

Noted by the Acting Secretary to Government, Revenue Department, Cuddalore, 25th May 1874.

MAV
No. 1064

Received by the Collector of Cuddalore, 25th May 1874.

Proceedings, Gen. M. 1874, No. 1064
25th May 1874

1874. 25th May
Board of Revenue,
MADRAS.

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792

Revenue Department.

No.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 11th May 1874.

Read the following Proceeding of the Board of Revenue

Under the right of decision, in favor of plaintiff, of suit No. 56 of 1873 filed in the Court of Sessions for the District of Cuddalore, in 1873, for arrears of revenue due by plaintiff on certain land included in the putta of first defendant, by plaintiff at a Court sale in 1870, and concluding that the land is dangerous because the law is not clear.

H. E. 6. May 1874. No. 1064.

The Government deem that the copy of the judgment, forwarded with the foregoing proceedings, are ready for delivery on the 30th of January last, and they find it necessary to direct the Collector to forward it until the 28th March, and then allow the appeal time to expire. 26.5. The Secy. to Govt. considers that, whatever the law may

not far enough. The dis-
tinction it contains is dis-
missed when all is lost.

[illegible]

5

if the payments
made are credited
to the field before
the field is
paid off and is
which an error
series should
be made. The
the field being
eventually little
without distinction
for any reason
the business
by order of the field
paid off.

John

27.5

to the field

to the field

6
792

I am exceedingly
anxious to draw the
special attention of
my honorable superiors
to this important case
as it illustrates forcibly
what I venture to think
is a very serious but
not illegal
our Revenue Administration
in respect to sales of
lands for revenue of
Revenue - an error
which I think requires
remedied and avoided
of an easy case and
penal one.

The case

appears to be a
follows - a Pattah
has several distinct
lots of land - each
usually numbered
and designated
the Revenue Board
and separately assess
the appropriate
demand for these
lots at 1000 acres
sold under a decree
of the Court from
that person, the Plaintiff
before the Court. The
Pattah has fallen into
disrepute in respect to
some of the State
lands. It still
remains in his
possession, but the
Revenue

Revenue authorities
proceeded to sell
the two lots of land
which had passed
out of his hands - on
one of which no arrears
whatever was due and
on the other only a few
annas - for the debt
of the Pattah and
they justified this course
before the Court on the
ground that the lots
had not been taken
out of the defaulting
Pattah and entered
in a separate Pattah in
the purchaser's name
and that the State
is entitled to sell any
land in the Pattah
individually

indiscriminately for
arrest of demand in
lawrence's account.

The first Court
had granted equitable
relief and cancelled
the Revenue Sale, but
I think a grievous wrong
was done and that
the path is to be wrong
in the Revenue Inspection
and the same should be
left to pay the costs
and pay. For it was
stated that the default
Commissioner should be
liable, on which the
Revenue (P.L. Receipts)
were actually due and
it is severely punishable
to the Government
and hence a great deal of
trouble.

2

8
1/2

the defaulter paid him
to have his own land
at the expense of the
purchaser whom he
sought to spite and
possibly allowed access
to access with this very
object.

The Conditions
which affect this case
are fully gone into in
the Proceedings of the
Board of Revenue dated
30 July 1873 L. 1130 (Proceedings
of Government 800 Sept 1873)
wherein the obvious
doubts as to the legality
of selling land to anyone
who perhaps there was
no arrears of demand
but has paid out
of the possession of the
person.

Some in Shore Patches
it may still continue
to be entered. I would
draw attention to this
argument.

Mr. Cunningham
has apparently expressed
his opinion (Proceedings
Government 34 Oct. 1879)
that any land-lower
owned by the Government
is not, which is entered
in the land chain in
Revenue Patches
contains little or no
value for any amount
which may amount
to any land under
the Public Land Act
to appear to appear, and
he argues that the
land is in accordance
with

with the provisions of
Regulation XXV of 1862
and Act II of 1864. But
the Board have pointed
out in their Proceedings
above quoted and the
Proceedings of 16 Oct. 1879
the inconsistency of this
opinion as well with
Regulation XXV of 1862 as
with the ruling of the
High Court (Special Appeal
No 79 of 1866) and Act II,
and I thoroughly agree
with them.

Leaving aside for
the moment the fact
that an argument based
on the provisions of
Regulation XXV of 1862
or perhaps undeniably
because that Regulation
like the others which

were passed in that
year in accordance
with the fiscal policy
of the time - applied
to the alienation of
under land and
it to the same thing
and because it is
primary condition
- the provision of rights
under section 11 - is
not fulfilled; and
even admitting that is
regretted of which is
left by the Government
that it may be said
to fulfil is a kind of
way the condition of the
Regulation, I still think
that the land is properly
and generally registered
with its appropriate
Revenue

without the proper assessment
belonging to the alienated portion of the
estate

to
the

Revenue demand, paying
Revenue to Government
and not to a Pottah
in which is blocked land
(East generally registered)
and assessed in the
Revenue books to a
specific demand may
be entered, alone come
within the scope of the
Regulation, which
merely provides that
the Revenue demand
shall follow the ~~price~~
price of land into the
hands of any transferee
Again the words
of section 11 of the section
regarding the land is shall
be regarded as the
Revenue of the Public Revenue
clearly points to a specific
land

land on which a
distinctly registered
claimant is due
to the security for that
demand and not
to a Patent. The
therefore does not
authorize the Revenue
authorities to proceed
against any person
merely on the ground
which may be entered
in a Patent. There
is some doubt as to
whether or not there
is a distinct and
separately assessed
block of land in the
village of [unclear] in the
[unclear] district.

Therefore the
[unclear] that the
[unclear] can be paid
[unclear]

11/2

of the Revenue authorities
as occurred in the
case under consideration
- and are constantly
occurring without being
challenged in the courts
are not only wholly
unjustified but are
not justifiable under
the law.

Be this as it may
practically
there is no good or
reasonable ground
for persisting in such
unjustified
practices. Each block
of land or farm which
pays revenue is carefully
measured, assessed
and registered in
the Village Account
and the receipt is
account of the demand
for each can be sent by
[unclear]

some rule) definitely
entire. The credit of
the block to which it
appertains there is
therefore no sort of
confusion in the
matter. There can
be no doubt as to
land against which
an action has been
brought and any doubt
as to the process
itself shall be
to remove. I think
it is not that what
is intended shall
be proved by facts
that is a mistake
but the rule that
the fact against
which an action has
been brought is

12

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order of the Board
of Revenue in a full
statement of the case
I am satisfied that
the reasonable
would generally avert
the recurrence of the
frequent scandals
which now take place,
without in the least
endangering the rights
of Revenue, ^{would} protect
a vast quantity of land
properly from the danger
of confiscation in a
more technical & probably
wholly illegal plan.

The question really
arises "Why was not the
transfer at once
registered?" and the
inference is that
a lapse occurred

on the part of the
transferee who failed
to apply to the Master
to open a new ledger
head on the accounts
and transfer an
I look upon it nearly
equivalent to the name
of the merchant and
to assume a fresh title
but practically there
are considerable
difficulties in the
way. The Court cannot
make a transfer in
any existing Patent
and issue a new
Patent without the
consent of both parties
as a course which
is almost entirely
impracticable.

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/ 72

Especially in cases of
forced sales. If the
consent be withheld, a
Court of Discretion could
not well have been
instituted - in which
the Master must be
made a Dispositive
officer to obtain the
transfer, and a variety
of other delays & obstacles
may ^{be} occur, which
without any fault on
the part of the transferee
seriously hinder if they
do not entirely prevent
the formal registration.

But in fact the
registration does
for all practical
purposes take place
as a rule at the time
the land passes into
new possession. The
Village

Whichever of the two
of the transfer must
be made and except
the appropriate person
has been given
the power from the transfer
and from their power
to make for the money
measured of such
and such a P. that
this purchase has
been a change, while
I do not see that
any further action
is necessary. I am
sure that the
and safely fulfilled
the conditions
with the view of the
provision for the
of the transfer in the
the transfer must be
and the transfer must
be made by the transfer

19
/ 92

At one time the map
part of all the land
in Malabar - when
the P. that for its equity
was really changed
in the condition and
I would earnestly
submit such paper
should be believed
from the needless risk
of being sold for arrears
that are not due by
the possessor and do
not belong to his holder
13/6 W. L.

No "Kia Kides"
is alleged against
the West African Com
mission & we can
not therefore punish
them.

The other 2 questions
raised by my
brother Cleopatra
are -

1. He maintains
that the specific
parcel or plot of
land on which
an area occurs
must first be
bladed. I say after
the 6 sections of
the Act 12^o 2/54 have

"It shall be
lawful ... to
sell the whole or
any portion of the
land of a de.
fendant." The ad-
verse party cannot
be put to the test
here both from the
opinion that any
land of the
defendant may
be sold. Sect.
2 of the Act is
more general de-
claration of liability.
I pay attention also
to the phrase in

See also Sect
52. How is an
advance for
cultivation to
be distributed
over a man's
lands?

16
Sect 44. The
Legislature there
expressly provides
that no more land
shall be sold
than is necessary
to cover the arrears
of cost of the crops -
it is reasonable
to suppose that
if it had been
the duty, it would
also have explicitly
provided that
the portion of the
plot - the value
of a land lease
not been paid -
should be paid to
the owner. This I think

is the loss of the
case. But I
have no objection
to the ^{1st} having
a book better than
any administrative
difficulty in
the way of our
advising that, as
the rule of practice
the particular
can be in a limited
an amount being
accounted ^{1st} better
to put ^{1st} sold. It
will be necessary
in this case for
the right to be
made a thing
which is to be done

2

for which ^{make} further
- and or plot to buy
it. We must also
prescribe what
to be done when
a day is over some-
- thing or each (say
of this or seven plots
must each be put
up separately for
it own account? The
are some other various
points of detail which
the ^{1st} will be able to
take these.
The 2^d point is
whether an unregulated
state shall be recog-
nized or not. Then
the Law by which of
1882. Sect 2 & 3.

usually such
by the Arran Act)
being clear enough
and it is then
sufficient for the
purpose that the
fact should be
of such transac-
tion. The doubt is
only & is usually
removed in some
of the cases. But this
is not the result
of fact but of the
parties concerned
in the case of a
Court sale (such
as the purchase
of land) and
in the ordinary case

if the Court is suf-
ficiently warrant
that in other cases
there is a clear and
sufficient in the pro-
cedure, if unregistered
and sales are ad-
mitted? Surely
there can be no
hardship or in-
justice in requiring
a purchaser to
register his pur-
chase in the Clerk
books - and then the
attestation of the
Mortgage in the file
as a matter of
course - the purchaser
looks into the title
of the title, and I

I suppose to allow
 a receipt for his
 money - why should
 he not complete his
 letter this respect also
 except in the case
 of Court & Arrang
 when a collector
 clearly cannot alter
 trying to be that in
 less with his own eyes
 that is not his
 fault

S. S.

17

I am writing to you
 to inform you that I
 have told the collector
 that he must practice
 regularity in every
 thing he does
 as far as possible
 as far as possible
 as far as possible

The purchaser name - this
 is (or used) always the same
 - Amara 19/6 MR

19
 792

As regards the particular procedure
 used before us, all that we can say
 is so is to be made with disapproval
 upon the collector's delay, which
 allowed the time for appeal to
 expire. We cannot expect to
 furnish grounds in enjoying the
 Revenue Officer concerned, who though
 the collector (not without reason) acting
 in accordance with the law & regulation.
 But the questions are raised
 by the procedure, if
 a right in Revenue Officer is

Is allowed to sell for areas of
rest land other than that in respect
of which the currens have occurred?

Of course, if such sales were illegal,
they would be at once prohibited.

And whether they are illegal or not,
seems uncertain. No part of the

(Pres^{nt} MS. of the 6 June 1870) relating
to what but they are legal, but
yes they are permitted and not that.

There can however, - initiation whether
the law does, & does not authorize
such sales - in (as I think) full
objection to the course proposed.

of the same in A.C. Council No. A.C.
Revenue as to the administration
and efficiency of & a Director to
Revenue Officers that the ^{particular} land is subject
of which the various have occurred should
be paid off.

I presume that, if the directors were
opposed, ~~the~~ case would be difficult
and arise on account of the invention.
State of the law would not be frequent.

Probably also the cases in which you
 need cause for complaint would be given to
 the Hyatt & Co. subsequently for
^{the same} ~~the same~~ a permit on which I am not very
 well able to judge: and if their works

it is plain that the law ought to be altered, at least so as to define it more clearly. And from our point of view, as I consider it an important document in point of equity & sound policy to sell one piece of land for an area less than another, I would alter the law so as to prevent this in future.

2. Right of retention of transferor to be required as a condition in which only the part, can be sold, for revenue purposes, the Govt. will help it?

On this point, the law is clear: and I confess I see no good reason for altering it. I think that the part should have more clear documentary evidence of the transfer & a further reason as to it is necessary to avoid confusion & error, & consequent loss to the revenue. *J. H. June 24/79*

Revenue Department

No.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 21st June 1874.

Read the following Proceedings of the Board of Revenue

Submitting Collector's report of decision in favor of Plaintiff, granted filed in Sub Court of Madras for obtaining cancellation of sale, in 1871, for arrears of revenue due by 1st Dept. of certain land included in his portion, but purchased by Plaintiff at a forest sale in 1870, and remarking that there is danger because law on this point is not clear.

H. E. 6 May 1874, No 1032.

J. D. S.

J. H.

The Govt observe that the copy of the Sub Judge's judgment, forwarded with the foregoing Proceedings, was ready for delivery on the 30th of January last. The Collector, however, did not forward it until the 28th March, and thus allowed the appeal time to expire. This should not have occurred.

The Secretary to the Government

20/6
James H. Sp. - all the
Sub Court of Madras
the revenue of the
of this Court

Governor in Council consider
that, whatever the law may
allow, it is certainly ^{undoubtedly}
that lands on which no
arrears are due, should be
sold for arrears due on other
lands which are not brought
to sale, and the notion that
a feeling of this nature seems
to have had considerable
weight with the Judge
in disposing of the question
regarding P. M. No. 11, where
arrears were due on field
No. 17, the legality of the order,
canceling its sale, should
certainly have been contested
by an appeal.

3. Though there may be
a difference of opinion as to
the precise bearing of the law
on the question, which has
been pointed out, difficulty
on the score may be obviated
if the practice can be so
arranged that the purchase

transferred - however
informally - to
another party

land on which an arrear
has accrued should be first
sold. His Excellency the Governor
in Council accordingly ordered
to call upon the Board of
Revenue for an opinion on
this point. It would be
necessary for a report when
he makes a payment to de-
clare for which particular
plot of land he makes it,
and it must be considered,
among other minor questions
of detail, what is to be done
when a report covers something
on each of several fields, viz.
whether each is to be put up
separately for its own arrears.

4. The case would never
have come up had the land
been formally transferred to
the purchaser at the time of the sale
with the purchase of the arrears.
So no doubt that the fact
of each sale if properly proved
would have been sufficient.

have been entirely

to authorize the necessary
alteration in the patent. It
is absolutely necessary for
the protection of Govt. interests
that no sales should be
recognized without such
transfer is made and it
would seem probable if the
points in such cases would
issue receipts to transfer
the lot sold to the purchaser
name.

The High Court will
be addressed on this point.

The costs of the suit
will be paid as usual by
Govt. as "mala-fides" being
alleged against the Patent
office concerned.

E. J. L.

To the Hon. Secy. of the
Patent Office
Washington
D.C.

1877-78

72
July 1st 1884
H. J. ...
...
...
...
...

CO
CO

250-257

713
M.R.O. 1-20,002-12