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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. ~~B.P. No.~~ 792
Press ~~Mis.~~

Dated 26. 6. 1874 ~~196~~ .

Not to be folded or roughly handled

2/792

Proceedings of the Madras G Revenue Department.
26th Ju

No. 250. Read the following Proceedi the Board of Revenue, dated 6th
May 1874, No. 1,054 :—

Read the following letter from W. D. H Y, Esq., Collector of Cuddapah,
to J. GROSE, Esq., Secretary Board of Revenue, dated Voil-
paud, 28th March 1874, No. 75 :

I HAVE the honor to forward a cop judgment passed by the Sub-
Court of Cuddapah in a suit against a Rev pector, the defence of which at
the public expense was sanctioned by the their Proceedings, No. 2,137,
dated 5th November 1872.

2. A decree has been passed in fav intiff, subject to the payment
by him of Annas 6 Pies 7, arrears of rever field No. 17, and the Revenue
Inspector, who is the sixth defendant, an endants are to bear the plain-
tiff's costs.

3. The defaulter Venkamma held several fields. She sold all
her land, except seven fields, to differ ons. The arrears against her
amounted to Rupees 22-14-7. The land e retained was considered of no
value except No. 27, and this land only w up for sale. As no bids were
made, it was bought in by Government at nal price of Annas 4. The other
lands in Venkamma's name were not eded against, and this was wrong.
They should have been put up for sale and ght in, if necessary, before the lands
purchased by others were sold for the arre The lands of Venkamma purchased
at a Court sale by the plaintiff in this are Nos. 17 and 111. The arrears
against No. 17 amounted to Annas 6 Pies 7. gainst No. 111 there were no arrears.
The Court has evidently not been misl s to the amount of arrears being
Annas 6 Pies 7, and an explanation that the ears were Rupees 22 and odd would
have made no difference in the decree, fo e Court says in *paragraph* 3 of the
judgment "The reason for these lands havi been put up for sale is that accord-
ing to some *practice* obtaining in the Reve partment, any land embraced in a
defaulter's putta is liable to be sold for ar sist. I am not aware that such
a practice, if it exists, has received the san of the law, which, as it at present
stands, contains no such provision." It app ed to me at first that the Revenue
Inspector had made a mistake in his evid e as to the amount of arrears for
which Nos. 17 and 111 had been sold, and e Government Vakil had failed in
his duty in not managing to correct the m ke. But it is quite clear that the
Court would not hear of any arrears except e against the land in dispute.

4. In Board's Proceedings No. 3,87 ted 6th June 1870, I find it is a
doubtful point whether all the land in a p putta, or any portion of it other
than that on which arrears are due, can be h responsible for the arrears. Practi-
cally the doubt has never been entertained this district, and lands have been
attached and sold without reference to th ears being due for the very fields
sold.

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

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

Enclosure —Copy of Judgment.

In this case plaintiff in 187 hased at a Court sale certain land included in the putta of first defendant, b neglected to apply for a transfer of putta. In 1871 the land was sold under II. of 1864, for arrears of revenue due by the registered holder. Plainti sued to have the revenue sale cancelled. The Revenue Inspector who c ted the sale was made a defendant (sixth). On his behalf it was contended ference to the provisions of Act II. of 1864, and Section 3, Regulation XXVI. 802, that the sale was valid. The Court holding that the revenue sale was d has cancelled it and decreed the land to plaintiff, subject to the payment pees 0-6-7, arrears found to be due on the land actually sold. The amount n the whole putta was Rupees 22-14-7.

2. The Board believe that t ision 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.

Board's Proceedings, dated 30th July 187 No. 1,198.
G. O., dated 11th August 1873, No. 827.
" " 14th October " No. 1,1
Board's Proceedings, dated 2nd Decemb 1873, No. 2,148.
G. O., dated 10th January 1874, No. 38.

3. The Collector should have reported the result of the suit in time to admit of an appeal being made.

No. 251. ORDER THEREON, 26th June 1874, No. 792.

Miscellaneous

THE Government observe that the copy of the Sub-Judge's judgment, forwarded with the foregoing Proceedings, was ready for delivery on the 30th of anuary 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.

2. His Excellency the Gover in Council considers that, whatever the law may allow, it is certainly undesirabl e that lands transferred, however informally, to another party and on which no arrea are due, should be sold for arrears due by the transferror on other lands which are no t brought to sale; and he notices that a feeling of this nature seems to have had consi derable weight with the Sub-Judge in disposing of the question regarding No. 111. As, however, arrears were due on field No. 17, the legality of the order cancelling t e sale should certainly have been contested by an appeal.

3. Though there may be a diffe ence of opinion as to the precise bearing of the law on the question which has b raised, any difficulty on this score may be obviated if the practice can be so ar nged that the particular land on which an arrear has accrued should be *first* sold. H Excellency the Governor in Council accordingly resolves to call upon the Board of venue for an opinion on this point. It would

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be necessary for a ryot when he makes a payme of land he makes it, and it must be considered, what is to be done when a ryot owes something each is to be put up separately for its own arrea

4. The case would never have come up, to the purchaser at the Court sale. The fault entirely with urchaser, for there can be no doubt that the fact of such sa properly proved, wou ave been sufficient to authorize the necessary alteration i putta. It is absolutely necessary for the protection of Government interests that ales should be recognized without such transfer is made, and it would save trouble e Courts in such cases would issue precepts to transfer the lot sold to the purchase ame.

5. The High Court will be addressed on

6. The costs of the suit will be paid as Government, no "mala fides" being alleged against the Revenue Officers co

(True Ext)

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

To the Board of Revenue
" the Accountant-General
" the Judicial Department.

Exd. W. H. French

Govt. of [1874] Madras.

REVENUE.

The Board of Revenue

3/79

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 Voilpaud, 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. ~~6,133,~~ 2137 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 8, Regulation XXVI. of 1802, 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.

Board's Proceedings, dated 30th July 1873, No. 1,438.
G. O., dated 11th August 1873, No. 827.
" 14th October " No. 1,104.
Board's Proceedings, dated 2nd December 1873, No. 2,448.
G. O., dated 10th January 1874, No. 38.

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.)

J. Grose
Secretary.

To the Acting Secretary to Government, Revenue Department,
with one original enclosure to be returned.
" the Collector of Cuddapah.

Ind. W. H. French.

Rec 1874. Depart
No 1060

Board of Revenue,
MADRAS.

PROCEEDINGS, 6TH MAY 1874, No. 1054.

Received 13 May 74.

MAY.
No. 1054.

Read—No. 56 of 1873 filed in Sub-Court of Cuddapah for obtaining annulment of sale in 1871, for arrears of revenue due by first defendant, of certain land included in the putta, but purchased by plaintiff at a Court sale in 1870 —Collector's report of decision in favor of plaintiff, submitted to Government, with remark that there is danger because law on the point is not clear.

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No.

Revenue Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the May 1874.

READ the following Proceedings of the Board of Revenue

Submitting Collector's report of decision, in favor of plaintiff, of Suit No. 56 of 1873 filed in Sub Court of Cuddapah for obtaining annulment of sale, in 1871, for arrears of revenue due by first defendant, of certain land included in the putta but purchased by plaintiff at a Court Sale in 1870, and remarking that there is danger because law on the point is not clear — H.D. 6 May 1874 No. 1052.

The Government 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 ~~and they fail to understand why~~ the Collector's Lawyer did not forward it until the 28th March, and thus allowed the appeal time to expire.

2. H.E. the G. in C. ~~They do not~~ considers that, whatever the law may

may allow, it is certainly in-
equitable 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
any notion that a feeling of this
nature seems to have had
considerable weight with the
last Judge in disposing of the question
regarding No 111 – As, however,
arrears were due on field No 17,
the legality of the order cancelling
the sale should certainly have
been contested by an appeal

[illegible] enough – The [illegible]
[illegible] W [illegible] [illegible]
must bear all costs.

[illegible] [illegible]
[illegible]
[illegible]
[illegible]
XXVI of 1802 [illegible]
[illegible]
(C.S.B. 8 Oct 1860 No 1164)
[illegible] inapplicable [illegible]
[illegible]

5

Assuming the Court sale
to have been bonâ fide, the
last Judge's decree though
according in law is substan-
tially just. It is wrong in
law because the purchaser
omitted to have the land regis-
tered in his name in accordance
with Reg XXVI of 1802 – vide the
sale. ~~[illegible]~~ Whether all the
lands in a [illegible] should be
equally liable for arrears depends
in a great measure on the usage
of a district as to the way in
which the revenue is realized. If,
as is the case generally, the instalments
are shown in a lump in the

if the payments
made are credited
to each pattah before
then the pattah is
[illegible] of amount in
which are arrears
arrears should
first be sold - the
other pattahs having
been totally liable
without distinction
for any arrear
[illegible]
by sale of the patta
first sold.

[illegible]

27.5

[illegible]

6
[illegible]

I am exceedingly
anxious to draw the
special attention of
my Honorable Colleagues
to this important case
as it illustrates forcibly
what I venture to think
is a very serious evil
if not illegality - in
our Revenue administration
in respect to sales of
lands for arrears of
Revenue - an evil
which I think requires
remedy and admits
of an easy, safe and
practical one.

The case
[illegible]

appears to be as follows — a Pattahdar had several distinct lots of land — each separately numbered and registered in the Revenue Records and separately assessed by the appropriate Revenue Department; of these two lots Nos 16 & 17 were sold under a decree of the Civil Court to third persons, the Plaintiffs before the Court. The Pattahdar fell into arrears in respect to some of the other lots of land, which still remained in his possession, but the Revenue

Revenue authorities proceeded to sell the two lots of land which had passed out of his hands — one of which no arrear whatever was due and on the other only eight annas — for the debt of the Pattahdar and they justified this course before the Court on the ground that the lots had not been taken out of the defaulter's Puttah and entered in a separate Puttah in the purchaser's name and that the State is entitled to sell any land in the Puttah indiscriminately

indiscriminately for
arrears of demand in
business accruing.

The Civil Court
has granted Equitable
relief and cancelled
the Revenue Sale but
I think a grievous wrong
was done and that
the parties at fault
in the Revenue Department
and others should
be left to pay the costs
in judgment. For it may
appear that the defaulter
continues to hold the
lands on which the
arrears (Rs. [illegible])
were [illegible]
[illegible] possible
that the Revenue Sale
was done for the [illegible]
the

the defaulter paid them
save his own land
at the expense of the
purchaser whom he
sought to spite and
possibly allowed arrears
to accrue 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 No. 1538 (Proceedings
of Government 11 May 1873)
wherein the obvious
doubts as to the legality
of selling lands against
which perhaps there are
no arrears of demand
that have passed out
of the possession of the
persons

lessor in those Pattahs it may still continue to be entered I invite earnest attention to this argument.

Mr Cunningham has apparently expressed his opinion (Proceedings of Government 14 Oct. 1875) that any land-lease owner's collection in arrear, which is entered in the last shown in a Revenue Pattah is continued liable to be held for any amount which it may accrue at any time under the Pattah which it happens to appear, and he argues that this view is in accordance with the provisions of Regulation XXVI of 1802 and Act II of 1864. But the Board have pointed out in their Proceedings above quoted and the Proceedings of 14 Oct 1875 the unsoundness of this opinion as well with Regulation XXVI of 1802 as with the ruling of the High Court (Special Appeal No 79 of 1866) and Act II of and I thoroughly agree with them.

Leaving aside for the moment the fact that an argument based on the provisions of Regulation XXVI of 1802 is perhaps inadmissible because that Regulation like the others which were passed in that year in accordance with the fiscal policy of the time — applies to subinfeudations of Zamindari land and not to Ryotwari holdings and because the primary conditions — the provision of Regulation under Section II — is not fulfilled, and even admitting that a Ryotwari of land is held by the Zamindars that it may be said to fulfil in a kind of way the conditions of the Regulation, I still hold that the land held properly was separately registered and was appropriated Revenue

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

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3

10

Revenue demand) paying Revenue to Government and not to a Pattah in which the blocks of land (each separately registered and assessed in the Revenue books to a specific demand) may be entered, alone come within the scope of that Regulation, which merely provides that the Revenue demand shall follow the piece of land into the hands of any transferee.

Again the words of Cl. II of 1802 Section 2 viz The land so shall be regarded as the security of the Public Revenue clearly point to a specific land

land on which a
distinctly separate
assessment is due
to the Sovereign for the
demand and not
to a Pattidar. This Act
therefore does not
authorize the Revenue
authorities to form
against any & every
piece of land in any
which may be entered
in a Pattah. which
by the statute of law
includes more than
one distinct and
separately assessed
block [illegible] there is a
[illegible] of the Law

Therefore I hold
strongly that land holders
[illegible] to be part
of

11

of the Revenue authority
occurred in the
case under consideration
- and are constantly
occurring without being
challenged in the Courts -
are not only wholly
inequitable but are
not justifiable under
the Law.

Be this as it may
practically
there is no good or
reasonable ground
for persisting in such
inequitable
practice. Such blocks
of land or farms which
pays revenue as having
numbered, assessed
and registered in
the village accounts
and the receipt or
account of the demands
for each [illegible], ought
and

[illegible] depending
always the credit of
the Black [illegible]
opportunity. There is
therefore no doubt of
confusion in the
matter & there can
be no doubt as to the
land against which
an arrear has arisen
and hardly any doubt
as to the inference
thereof should be by
the Revenue. I think
therefore that strict
instructions should
be issued by Governm
that in no case shall
land be sold other
than that against
which an arrear has
[illegible] that the

order of the Board
of Revenue in a full
statement of the case
I am satisfied that
this reasonable [illegible]
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
property from the danger
of confiscation on a
mere technical & probably
wholly illegal plea.

The question naturally
arises "Why was not the
transfer at once
registered?" and the
inference is that
a [illegible] occurred

on the part of the transferee who fails to apply to the Collector to open a new ledger head in the accounts and transfer a block of land recently acquired to the name of the new holder and to receive a fresh Pottah but practically there are considerable difficulties in the way. The Collector cannot make a transfer in any existing Pottah and issue a new Pottah without the Consent of both parties and a consent which is frequently withheld

especially in cases of forced sales. If the consent be withheld, a costly & vexatious civil suit would have to be instituted in which the Collector would be made a Defendant in order to obtain the transfer, and a variety of other delays & obstructions may 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 reregistration does for all practical purposes take place as a rule at the time the land passes into new possession. The

Villag

[illegible]
of the [illegible]
[illegible]
the [illegible]
[illegible]
[illegible] from the [illegible]
and pass their [illegible]
[illegible] for the [illegible]
[illegible]
and such a Pattah
this [illegible]
have [illegible] changed.
by the Board [illegible]
[illegible]
[illegible] system
[illegible]
[illegible]
and deeply fulfilled
I [illegible]
[illegible] of the
[illegible] property
[illegible]
[illegible]
[illegible]
[illegible] by [illegible]

at one time the maj
part of all the land
in Malabar – wher
the Pattah (or its Equiv
was rarely changed –
in this condition an
I would earnestly
submit such proper
should be relieve
from the needless ris
of being sold for arrea
that are not due by
the possessor and d
not belong to his hold
13/6

No "mala fides"
is alleged against
the Govt officers con
cerned & we can
not therefore punish
them.

The other 2 questions
raised by my
hble Colleague
are.

1. He maintains
that the specific
parcel or plot of
land on which
an arrear accrues
must first be
sold. I beg atten
tion to Section [illegible] of
the Act (No 2 (Be

"It shall be lawful ... to sell the whole or any portion of the land of a depredator". The Advocate Genl. and the Pub. Prosecutor have both given the opinion that any land of the depredators may be sold. Sect. 2 of the Act is mere general declaration of liability. I beg attention also to the reasons in

Sect 44. The Legislature there expressly provides that no more land shall be sold than is necessary to cover the arrear & cost of process. It is reasonable to suppose that if it had so intended, it would also have explicitly provided that the particular plot - the asst. of which had not been paid - should be first sold. This I think

See also Sect 52. How is an advance for cultivation to be distributed as a mains lands?

is the law of the
case. But I
have no obj. either
of the Regn. having
a doubt whether there
is any administra
the difficulty in
the way of our
ordering that, in
the rule of [illegible]
the particular
claim to an [illegible]
an arrear being
accrued should
be first sold. We
under the [illegible]
in this case for
the Regn. when to
[illegible]
[illegible] declare

2

for which it partic
makes
-ular felt be ~~[illegible]~~
it. We must also
prescribe without
to be done where
a [illegible] over some-
-thing on each (say
of two or seven pl
must each be [illegible]
up [illegible] for
it own arrears? The
are some other [illegible]
points of detail [illegible]
the Regn. will consider
all these.

The 2d point is
whether an unexpired
sale should be [illegible]
[illegible] or not. Here
the Law Reg XXVI of
1802 - Sect 2 & 3 -

necessarily incident
to the arrear but I
become clear enough
that it is [illegible]
necessary for the
safety that the
[illegible] should know
of such transac-
-tion – The doubt &
lay & difficulty
occur in some
of equity
cases – but this
is not the fault
of [illegible] but of the
[illegible] [illegible]
In the Case of a
Court Sale [illegible]
in these [illegible]
[illegible] [illegible]
in the [illegible]

of the Court is suf-
ficient to warrant
that in other cases
how is a Clerk ever
safe in his pro-
cedure, if unregist-
ered 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's
books – and then to
[illegible] of the
[illegible] in the files
as a matter of
course – the [illegible]
[illegible] into the title
of the Clerk, and I

In supposing to allow
a receipt for his
money – why should
he not complete his
[illegible] respect the
receipt in the course
of Court & Arrears
under the Collector [illegible]
clear by [illegible]
[illegible]
[illegible]
[illegible] is not [illegible]
[illegible] –

J. D. L.

17/6

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] arrangement
[illegible]
[illegible]
[illegible]

The purchaser's name – this
(or used) always the same
in Canara 19/6 HR

19/792

As regards this particular proceeding
now before us, all that we ~~can~~ have
to do is to remark with disapproval
upon the Collector's delay which
allowed the time for appeal to
expire. We [illegible] hesitating to
~~[illegible]~~ proceeding in inquiring the
Revenue Officer concerned, who though
~~[illegible]~~ (not without reason) acting
in accordance with law & regulation.
But the practices are [illegible]
of the proceedings of
[illegible] report on Revenue Officer's

be allowed to sell for arrears of
rent land other than that in respect
of which the arrears have accrued?
Of course, if such sales are illegal,
they must be at once prohibited.
But whether they are illegal or not,
seems uncertain. The Govt Madras
(Procs of Bd of Rev. 6 June 1870) evidently
think that they are legal, but
by the [illegible] it is doubted.
Here arises, however, — ~~whether~~ whether
the law does or does not authorise
such sales — the [illegible] that there [illegible]
objection to the course proposed

objection — after consulting the Bd of
Revenue as to the administrative
expediency of it — a direction to
Revenue Officers that the particular land in respect
of which the arrears have accrued should
be first sold.
I presume that, if this direction were
issued, the cases in which difficulty
would arise on account of the uncertain
state of the law would not be frequent.
Probably also the cases in which any
[illegible] cause for complaint would be given to
the Ryots would be extremely few.
Here however is a point on which I am entirely
unable to judge: and if I am wrong,

it is plain that the law ought to be altered, at least so as to define it more clearly. And for my own part, as I consider it ~~[illegible]~~ ~~[illegible]~~ & detrimental in point of equity & good policy to sell out ~~[illegible]~~ of land for arrears due on another, I would alter the law so as to prevent this in future.

2. Ought registration of transfer to be required as a condition on which only the Govt., ~~[illegible]~~ for revenue purposes, then can acknowledge it? On this point, the law is clear: and I, except I see no good reason for altering it, ~~[illegible]~~ that the Govt. should have some clear documentary evidence of the transfer of a portion ~~[illegible]~~ apart as it is necessary to avoid confusion & error, & consequent loss to the revenue.

June 24/74

2½ / 171 Revenue Department

No. 7

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 26 June 1874.

READ the following Proceedings of the Board of Revenue

Submitting Collector's report of suit decision in favor of Plaintiff, of suit filed in Sub Court of [illegible] for obtaining cancelment of sale, in 1871, for arrears of revenue due by 1st Deft., of certain land included in his puttah, but purchased by Plaintiff at a Court sale in 1870, and remarking that there is danger because law on the point is not clear. } H. E. 6 May 1874, No. 1052.

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.

2. His Excellency the Governor

2616

I pass this G.O. - altho' [illegible] [illegible] [illegible] [illegible] [illegible] of this case

Governor in Council considers that, whatever the law may allow, it is certainly undesirable that lands transferred – however informally – to another party or on which no arrears are due, should be sold for arrears due by the transferrer on other lands which are not brought to sale, and he notices that a feeling of this nature seems to have had considerable weight with the Sub-Judge in disposing of the question regarding No. 11. As, however, arrears were due on field No. 17, the legality of the order cancelling 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 raised any difficulty on this score may be obviated if the practice can be so arranged that the particular

land on which an arrear has accrued should be first sold. His Excellency the Governor in Council accordingly resolves to call upon the Board of Revenue for an opinion on this point. It would be necessary for a ryot when he makes a payment to declare 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 ryot owes 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 [illegible] sale. The [illegible] have been entirely with the purchaser. There can be no doubt that the fact of such sale if properly proved would have been sufficient

to authorize the necessary alteration in the puttah. It is absolutely necessary for the protection of Govt. interests that no sales should be recognized without such transfer is made and it would save trouble if the Courts in such cases would issue precepts to transfer the lot sold to the purchaser's name.

— The High Court will be addressed on this point.

6. The costs of the suit will be paid as usual by Govt. no "mala-fides" being alleged against the Revenue officers concerned.

To Rev. Member [illegible]
Asst Secl—
Govt. [illegible] } 15-7-74

7e

[illegible]

[illegible]

[illegible]

[illegible] State in [illegible]

[illegible]

[illegible]

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