

(1) Number of pages 12
(2) Date of repair 27-4-73
(3) Initials of the Referencer _____

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue

DEPARTMENT

G.O. No.	1872	Press
B.P. No.		Mis.
Dated	18 th June	1877

Not to be folded or roughly handled

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GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

1st June 1877, No. 1,872.

Read the following paper :—

- No. 5. Proceedings of the Board of Revenue, dated 28th May 1877.
Read G.O., dated 4th May 1877, No. 1,632, Revenue Department.

With reference to paragraph 2 of the above Government Order, the Board beg to explain as follows:—

2. As to limitation the Board beg to refer to the papers in the Erode potter's case, especially to the opinion recorded by the Acting Government Pleader, Mr. Shephard, as to the effect of the law as to limitation in force prior to Act IX of 1871. Prior to that Act the period of limitation for all suits, without exception, in favor of public claims was twelve years. By the Act a period of limitation of sixty years for claims in the name of the Secretary of State for India was introduced; but if (as was held by Mr. Shephard) the effect of the lapse of the period prescribed by the old law was to extinguish the right, as well as bar the remedy, the right would not be afterwards revived by the enactment of a longer period of limitation. The point was not pressed to authoritative decision in the Erode potter's case.

3. Government will probably be driven to a suit in the case of the Ouchterlony Valley, and that the point above noticed is relevant appears to the Board to be clear. The possession by Captain Godfrey under the grant of 1848 from the Tirupad, and of Mr. Ouchterlony under his first grant of 1848, would doubtless be considered adverse, and such possession had continued for more than twelve years before claim was put forth by Government to proprietary right in the valley. Such claim was first formally ordered to be maintained by G.O., 30th March 1865, No. 701. The Board are not aware whether that order was ever directly communicated to Messrs. Godfrey and Ouchterlony or to the Tirupad; but even if it were, nothing followed upon it which could be considered as an interruption of the adverse possession, and the Board are unable to find that it has ever been recognised by any of the persons named. The old period of limitation, twelve years from the date of Mr. Ouchterlony's second grant (1857), had elapsed before the Act of 1871 came into force, and therefore, unless the Government Order of 1865 avails, the right of Government has been (if Mr. Shephard's view is sound) extinguished in the case of the land held under it also.

4. The point as to the effect of the compromise between Captain Godfrey and Mr. Ouchterlony was not considered by the Board as of great importance; but they thought that if an opinion were sought upon the case, it might be well to include the question in the reference to the law-officers. It seemed to the Board

Revenue Department, 1st June 1877, No. 1,872.

that the compromise might come in as defining the extent of the Chetties' jenm, which Government might be forced to contest or to recognise. They believe that the compromise boundary gives to Captain Godfrey less than the extent claimed by him under his deeds, (viz., as far east nearly as Nilgiri Peak), but more than would be comprised in the boundaries described by Yella-Mullah Perumal Chetty (printed with Board's Proceedings, 28th September 1869, No. 7,205), according to which Aratapara was the eastern boundary of the tract.

(A true Extract.)

(Signed) H. E. STOKES,
Secretary.

No. 6. ORDER THEREON, 1st June 1877, No. 1,872.

Miscellaneous.

COMMUNICATED to the Advocate-General in continuation of the correspondence recorded in G.O., 4th May 1877, No. 1,632.

(True Extract.)

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

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

Erd. F. R. Bantleman.

No. 7,205.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 28th September 1869.

Read the following Proceedings of the Madras Government, dated 21st September 1869, No. 2,625,

Revenue Department:—

Read the following Proceedings of the Board of Revenue:—

Recommending that the Advocate-General should be engaged to appear on behalf of Government in Suit filed by Nellamboor Tiroopaud in Calicut Civil Court, to establish jenmom right to certain land in Malabar District and on Neilgherries.

(Here enter, dated 18th September 1869.)

ORDER THEREON, 21st September 1869, No. 2,625.

The Government authorize the Board to obtain the services of the Advocate-General as proposed, and to adopt the course recommended in paragraph 3 of their Proceedings.

(True Extract.)

(Signed) R. A. DALYELL,

Acting Secretary to Government.

To the Board of Revenue.

COMMUNICATED to the Government Solicitor, who is requested to instruct the Advocate-General on behalf of Government.

No. 484, Govt. Order, 29th March 1860.
" 1,116, Board's Procs., 28th Feb. 1861.
" 1,000, Govt. Order, 7th May 1862.
" 2,977, Board's Procs., 9th May 1862.
" 2,384, Govt. Order, 11th Nov. 1862.
" 22, do. 7th January 1863.
" 59, do. 10th do. do.
" 701, do. 30th March 1865.
" 2,477, do. 13th October 1865.
" 2,632, do. 7th Nov. 1867.
" 7,402, Board's Procs., 13th Nov. 1867.
" 2,853, Govt. Order, 29th Nov. 1867.
" 7,807, Board's Procs., 2nd Dec. 1867.

No. 186, Govt. Order, 23rd January 1863.
" 2,434, Board's Procs., 2nd April 1863.
" 3,223, do. 2nd May 1863.
" 1,097, Govt. Order, 22nd April 1869.
" 3,055, Board's Procs., 5th May 1869.
" 3,380, do. 17th do.
" 1,600, Govt. Order, 5th June 1869.
" 4,178, Board's Procs., 10th do.
" 1,731, Govt. Order, 17th do.
" 4,508, Board's Procs., 22nd do.
" 4,762, do. 2nd July 1869.
" 5,353, do. 23rd do.
" 6,829, do. 10th Sept. 1869.

2. The Collector has been requested to obtain an adjournment till the 13th October.

3. Copy of the papers marginally noted will be furnished to the Government Solicitor, with an intimation that

the following papers of which there are not duplicates will be printed and copies forwarded:—

Extract Minutes.
" " " " 194.
" " " " 27th August, " " 1,527.
" " " " 29th September, " " 1,754.
" " " " 11th March 1857, " " 245.

Letter from Collector of Malabar, dated 6th April 1857, to the Board of Revenue.

Board's Proceedings, dated 13th May 1857, No. 1,560.

Extract Minutes of Consultation, 11th August 1857, No. 805.

Board's Proceedings, 23rd September 1857, No. 3,180.

Letter from the Collector of Malabar, dated 9th November 1857.

Extract from letter from Collector of Malabar, dated 4th June 1858.

Proceedings, 2nd October 1858, No. 3,686.

Extract Minutes of Consultation, 22nd June 1859, No. 822.

" " " " 12th July " " 925.

" " " " Government Order, 28th September 1860, No. 1,731.

" " " " 27th November " " 2,247.

Letter from Collector of Malabar to Government, dated 5th September 1864, No. 1192,

recorded in Government Order, 30th March 1865, No. 701.

Mr. Grant's Memorandum, dated 29th August 1864.

Mr. Richardson's Report, dated 7th March 1863, No. 37.

Joint opinion of the Advocate-General and Government Pleader and draft of the written statement referred to in Government Order, 17th June 1869, No. 1,731.

(True Extracts.)

(Signed) A. MACGREGOR,

Acting Secretary.

To the Government Solicitor,

with papers referred to in margin of paragraph 3.

Copy to the Government Pleader.

" to the Collector of Malabar.

Ed. T. Cartledge.

Suit filed by the Government of Malabar against Captain Goldie. — Communicating to the Advocate-General, in continuation of former correspondence, Proceedings of the Board of Revenue submitting explanation with reference to their remarks as to Government being barred by limitation from asserting their claim, and as to the effect of compromise between Captain Goldie and the late Mr. Ouchterlony's representative.

JUNE.
Nos. 5-6.

G.O. in June 1871, No. 1,871.

Dated June, 1871.

Encl.

Ac. Ac. Ac.

THE ADVOCATE GENERAL.

REVENUE.

Obdt. of 1871

1871

1872
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N^o 2463

PROCEEDINGS OF THE BOARD OF REVENUE,

Dated 28th May 1877.

Read G.O. dated 4 May 1877.

1877 N^o 1632 R.D.

The two files of correspondence on the subject are now with the Advocate General with a copy of the G.O. dated 4 May 1877.

With reference to para 2 of the above G.O. the Board beg to explain as follows.

2. As to limitation, the Board beg to refer to the papers in the Erode potters case especially to the opinion recorded by the Acting Govt Pleader Mr. Shephard as to the effect of the law as to limitation in force prior to Act IX of 1871. Prior to that act the period of limitation for all suits without exception in favour of public claims was 12 years. By the Act a period of limitation of 60 years for claims in the name of the Secretary of State for India was introduced; but if (as was held by Mr. Shephard) the effect of the lapse of the period prescribed by the old law was to extinguish the right as

1869.
Board of Revenue,
MADRAS.

PROCEEDINGS 28TH SEPTEMBER 1869, No. 7,205.

Received

Encl.

1869-6-77 N^o 1632

Recd 28/5/77

SEPTEMBER

No. 7,205.

Suit—filed in Calicut Civil Court by Nellam-
bur Thirupad, to establish jennam right to certain
lands in Malabar District and on Neighbouring.
Sanction of Government to services of Advocate
General being engaged to conduct defence of on
their behalf, communicated to Government, Soli-
citor, with copies of certain papers connected
with subject of Suit, and with request to instruct
Advocate-General.

as well as bar the remedy, the right would not be afterwards revived by the enactment of a longer period of limitation. The point was not pressed to authoritative decision in the *Evde Potters' Case*.

3. Government will probably be driven to a limit in the case of the Ouehterlongy valley & that the point above noticed is relevant appears to the Board to be clear. The possession by Capt. Godfrey under the grant of 1848 from the Timpad, and of Mr. Ouehterlongy under his first grant of 1848, would doubtless be considered adverse & such possession had continued for more than twelve years before claim was put forth by Govt to proprietary right in the valley. Such claim was first formally ordered to be maintained by G.O. 30 March 1865 No. 701. The Board are not aware whether that order was ever directly communicated to Messrs Godfrey & Ouehterlongy or to the Timpad but even if it were, nothing followed upon it which could be considered as an interruption of the adverse possession and the Board

1872/6
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4. The point as to the effect of the compromise between Captain Godfrey and Mr. Ouehterlongy was not considered by the Board as of great importance, but they thought that if an opinion were sought upon the case, it might be well to include the question in the reference to the law officers. It seemed to the Board that the compromise might come in as defining the extent of the chettai jann which Government might be forced to contest or to recognize. They believe that the compromise boundary given to Captain Godfrey less than the extent

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Perumal Chetty (printed with Board's
Proceedings 28 September 1869 No 7205) accor-
-ding to which Aratupara was the Eastern
boundary of the tract.

(True Extract)

Witness

Secretary

To
The Secretary to Government. R.D.
with copy of Bd's Proc of 28 Sept 1869 No 7205.

Wm. H. H. H.

Ms. A. 9. 2. 682