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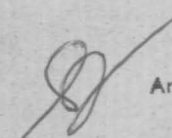
TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No.	6038	Press.
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GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

19th September 1877, No. 2339.

Malabar Land-cess.

Read the following paper:—

No. 138. *Proceedings of the Board of Revenue, dated 14th September 1877, No. 4296.*

Read the following letter from W. LOGAN, Esq., Collector of Malabar, to the Acting Secretary to the Board of Revenue, dated Calicut, 31st August 1877, No. 202:—

I have the honor to acknowledge receipt of the Board's Proceedings, No. 4007, dated 28th instant, relative to the revision of the Local Fund Land-cess in this district and to apologize to the Board for having omitted in my first letter to notice a point which indeed occurred to me as soon as I received the Government Order under reference, but which afterwards escaped me.

2. In paragraph 5 of my letter and in paragraphs 5 to 9 of the Board's Proceedings frequent reference is made to the position in which a "landlord" will be defined either in Act II of 1864 (Revenue Recovery Act) or in the Local Fund Act). The term used in both Acts is "landholder," and that term is precisely defined.

3. In my letter I used the word "landlord" in its general sense as applying to those who from their position in respect of land are enabled to dictate terms to those beneath them. In that sense it will be seen that "landlord" is an indefinite term. A "landlord" may be a jenmi in possession—one holding the *plenum dominium*, but he may also be only a usufructuary mortgagee. And, if so, at what stage does he *cease* to be a "landlord" and *commence* to become a "tenant"? In fact in Malabar it would not be difficult to imagine a case in which a man might be both "tenant" (as defined in the Local Fund Act) and "landlord" at one and the same time and in respect of one and the same land.

4. "Landholders" as defined in the same Act are not always in the general sense "landlords," and the reasoning which would apply if "landlord" in that sense had been used in the Act does not apply when for "landlord" we substitute "landholder," for again the "landholder" may be, and frequently is in the ordinary sense a tenant though not a "tenant" as defined in the Act.

5. The upshot of it all is that, as a "landholder" may be anybody from a jenmi in possession downwards, I would propose not to add the proviso inserted in the draft bill, but I would substitute (so far as Malabar is concerned) for the proviso to Section 47 now in force the following:—

"Provided that every landholder is hereby empowered to collect and recover from any person who enjoys a portion of the produce of the land registered in his name a share of the local rate payable under this Act in respect of such land, such share shall as nearly as possible bear the whole of the rate payable on such land the proportion which the beneficiary interest enjoyed by the person in such land bears to the net produce of the land."

6. Such a proviso would meet, I think, every possible case that could arise, and it would introduce into the Act an equitable principle which might well be applied

to other districts than Malabar, for, of course, though the "landholder" is now empowered to collect half of the rate from his "tenants," it by no means follows that what the "tenants" enjoy is half of the net produce of the land. And, as a matter of fact, in Malabar *tenants* (using the word in its ordinary sense) do not by any means enjoy so large a share of the net produce.

7. Under Section 50 the "landholder" could recover the shares due from his tenants."

8. It would also be necessary to add that the "landholder" is also at liberty to withhold a making a payment of rent (*purappad* would be the Malayalam word) to a person holding a superior title to his own, the share of the local rate assessable thereon.

9. Finally the proposal in the Draft Bill to leave the assessment of the shares to the Collector would also require to be inserted.

Submitted for the information of Government in continuation of Board's Proceedings, dated 28th August 1877, No. 4007.

2. The word "landlord" was inadvertently used in the Board's Proceedings instead of "landholder."

3. The Board are unable to accept Mr. Logan's wide interpretation of the term "landholder" as defined in Act II of 1864 and Act IV of 1871, and are consequently not prepared to recommend the adoption of the draft proviso given in paragraph 5 of his letter.

4. The object of the proviso appears to be the adjustment of the above, paragraphs 6 to 9, the Board have endeavoured to show that the tenant is present by no means entirely without protection as against his landholder in all cases in which he seems really to stand in need of such protection, and they have further shown that the procedure under which a tenant should proceed against his landholder requires definition. As regards sub-tenants, the Board are also inclined to think that under the existing practice of the country a tenant paying the assessment will not, as a rule, find much difficulty in throwing their full share of the burden on his sub-tenants, but, in the event of the Government adhering to their opinion that an additional proviso to Section 47 is required for Malabar, it would probably be as well to endeavour to frame one which would meet as many cases as possible, and leave great discretion as to proportion of incidence in the hands of the Collector. The following proviso is accordingly suggested in lieu of that contained in the draft Bill:—

"Provided also that, if the local rate be paid by a tenant paying the Government assessment on any land, he is hereby empowered to recover from the landholder or any sub-tenant or any person who pays a portion of the produce of such land such share of the local rate as the Collector shall determine to bear, as nearly as may be, a due proportion to the beneficiary interest enjoyed respectively by the landholder, sub-tenant, or other person concerned as aforesaid. The Collector's decision shall be final."

5. The Board must point out, however, that the task imposed on the Collector will not be an easy one to discharge, and that it might be as well to defer the enactment of any provision of the kind until further legislation is resorted to as contemplated in paragraph 7 of the Order of Government referring the draft Bill for report.

Dated 9th July 1877, No. 1868.

(True Copy and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 139.

ORDER THEREON, 19th September 1877, No. 2339.

These Proceedings will be transferred for consideration in the Legislative Department, to which the proposed Bill has now been forwarded.

(True Extract.)

Acting Under Secretary to Govt.

To the Legislative Department.
" Board of Revenue.
" Revenue Department.

22/9

Revenue Department

File 4128
Obdt. of 1877 JY 10/18/88

FINANCIAL.

THE LEGISLATIVE DEPARTMENT,
S.C., S.C., S.C.

Dated September, 1914.

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G.O. 1914 September 1877, No. 2339.

Sept 1914
SEPTEMBER.
Nos. 138-139.

Notes. — Proceedings, Board of
Saves, submitting with observations letter from
Director of Malabar on the subject of the draft
for revision of the Local Fund Land-uses
the district, transferred for consideration in the
relative Department.

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