(1) Number of pages 22 Sheets

(2) Date of repair 28.2.85 & 1.3.85

(3) Initials of the Referencer _____

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	1926	Press. / Mis.
Dated	27.11.1878	197 :

Not to be folded or roughly handled

Archives I—5,806—24-2-78.

GOVERNMENT OF MADRAS.

1926
1

REVENUE DEPARTMENT.

27th November 1878, No. 1,926.

Read the following paper :—

No. 370. Proceedings of the Board of Revenue, dated 3rd October 1878, No. 2,690.

Read again Board's Proceedings, dated 10th July 1878, No. 1,911.

Read also the following letters :—

From W. LOGAN, Esq., Collector of Malabar, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Calicut, 8th August 1878, No. 222.

In acknowledging the receipt of the Proceedings of the Board, dated 10th July last, No. 1,911, I beg to point out that in my letter, printed at the head of the Proceedings, I did not ask the Board to interfere in the management of the endowment therein referred to, but merely solicited orders as to whether, under the circumstances brought to light, I should not be justified in resuming the Inam.

2. It is observed that by paragraph 3 of the rules on the subject, "If the Inam was given for religious or charitable objects, such as the support of temples, mosques, colleges, choultries, and other public buildings, or institutions, it will not be subject to further interference, so long as the buildings or institutions are maintained in an efficient state."—*Vide* Standing Order No. 171, Dalyell's Edition.

3. On the facts found by my Acting Head Assistant, I was of opinion that a case had been made out, in which my interference in the matter above pointed out was expedient, and accordingly requested the orders of the Board, which I now beg to await.

From W. S. WHITESIDE, Esq., Collector of North Arcot, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Chittur, 18th September 1878, No. 278.

In forwarding herewith copy of Acting Sub-Collector's letter, No. 249, of 18th June last, which contains full particulars with regard to the proposed resumption of a Mahomedan religious Service Inam in the village of Thasupuram in the Arcot Taluk, I have the honor to recommend the measure advocated by Mr. Austin, as there seems to be no hope of the service being hereafter renewed, the musjid itself being no longer in existence. I request early orders on the case.

2. The Inam Title-deed, No. 503, dated 16th March 1861, is herewith forwarded for the perusal of the Board.

Enclosure No. 1.

From W. P. AUSTIN, Esq., Acting Sub-Collector, to W. S. WHITESIDE, Esq., Collector of North Arcot, dated Vellore, 18th June 1878, No. 249.

I have the honor to report the following case in view to the Inam therein referred to being resumed and charged with full assessment.

2. Inam Title-deed, No. 503, was issued in favor of the "Manager for the time being" of a musjid in the village of Thasupuram in Arcot Taluk, the grant consisting of 2·99 acres of wet land to be held tax free so long as the condition of "keeping up lights in the above musjid" was duly fulfilled.

3. One Mahomed Ummar last enjoyed this Inam and continued to perform the service attached to it until his death, which took place about three years ago. Since then no service is performed, the musjid itself, which appears to have been a temporary structure, has become ruined, and there only exist some remains of the walls.

4. The deceased left a minor son aged 12 years, who being also motherless is now under the protection of his maternal uncle Shaik Mohideen, a Naigue in the 1st Regiment of Cavalry stationed at Hydrabad.

5. Shaik Mohideen applied to the Tahsildar of Arcot on behalf of the minor, Mahomed Server, to have the Inam in question confirmed as a personal grant subject to quit-rent as the musjid in question had ceased to exist, and as it was impossible for them to restore it and continue the service stipulated in the grant.

6. An inquiry was held by the Tahsildar which confirms the fact that the musjid no longer exists, and that no service has been performed therein for upwards of two years.

7. Under these circumstances, I beg to recommend that the Inam may be resumed and a putta issued in favor of the lad, Mahomed Server, who is now in enjoyment.

8. The taram assessment of the land is Rupees 12-8-4.

9. The Inam title-deed and other connected papers are herewith submitted.

(True Copy.)

(Signed) W. S. WHITESIDE, Collector.

ENCLOSURE No. 2.—Inam Title-deed.

NOTWITHSTANDING the wording of the rule quoted by the Collector, the Board are of opinion that by Act XX of 1863 they are divested of all power of interference with the land or property of religious institutions, and that the Government have no power to resume Inams granted for religious purposes, even though the conditions of such grants have not been observed; Section 4 of that enactment provides for the transfer to the trustees or managers of all landed or other property which at the time of the passing of the Act might be under the superintendence or supervision of the Board of Revenue or any local agent, and declares that their powers and responsibilities in respect to all land and other property so transferred shall cease and determine; no reservation is made as to the power of resuming such endowments on any pretext whatever. The law provides a specific remedy for any breach of trust, *vide* Section 14, and it would be manifestly no satisfaction to any person interested in the maintenance of a religious institution if Government on the complaint of misappropriation were to resume the endowment when under the procedure above referred to he can enforce the due execution of the trust and secure the punishment of the defaulting trustee or manager.

2. The Board are therefore of opinion that no action should be taken on the part of Government in the cases brought to notice, more especially as they believe that a Bill is now before Government which will deal with the whole subject with reference to G.O., dated 4th April 1876, No. 639, and the Government in their Order, dated 22nd August 1877, No. 2,553, deemed it undesirable to take any steps in a similar case of misappropriation pending legislation. As, however, the opinion of the Board as at present constituted is opposed to the view taken in G.Os., dated 28th August 1874, No. 1,098, and 3rd February 1877, No. 504, the case will be submitted for the orders of Government.

(True Copies and Extract.)

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

No. 371. ORDER THEREON, 27th November 1878, No. 1,926.

Miscellaneous.

HIS GRACE the Governor in Council does not think it expedient to deal with the general question while endeavors are being made to obtain by legislation the creation of a Trust to administer religious endowments.

926

2. As regards individual questions of misappropriation of endowment there is a palpable distinction between maladministration by Trustees of an institution still existing and *quasi*-misappropriation of an endowment granted for an institution which no longer exists. In the latter case the State cannot be held bound to maintain an assignment of State revenue; in the former it is for those interested to enforce due administration.

3. The cases with which Government have already dealt may be brought within these principles.

In the case of the Kattalei Malai Hill in Tinnevelly, the Trustee of the Temple injured by the act of the Zemindar's manager sought the intervention of Government.

G.O., 3rd February 1877, No. 504, R.D.

In that of the Nadiam Mattam in Tanjore, the institution was not strictly of a religious nature, but it was the action of the Courts which alienated the endowment and the Government merely discontinued it after alienation.

G.O., 28th August 1874, No. 1,098, and subsequent correspondence.

4. In the present North Arcot case, His Grace the Governor in Council directs the imposition of full assessment as the mosque or tomb no longer exists, but in the first instance the representative of the Inamdar should have opportunity for repairing or restoring it.

5. In the Malabar case, it is not clear whether the grant is for a temple or a choultry, nor is it shown that the institution is not properly maintained. If it is a temple endowment, the Government see no need to interfere. If it is a charity, the Collector or Local Fund Board seem competent to enforce due administration; but the endowment by the Zamorin would seem to be from temple property for an allied purpose, and, if so, the original assignment was not for the chuttrum but for a temple which may be in full vigour. The information furnished does not justify the interference of Government.

(True Extract.)

(Signed) L. A. CAMPBELL,
Under-Secretary to Government.

To the Board of Revenue.

Exd. W. H. French.

No. 2,690.

Proceedings of the Board of Revenue, dated 3rd October 1878.

Read again Board's Proceedings, dated 10th July 1878, No. 1,911.

Read also the following letters:—

From W. LOGAN, Esq., Collector of Malabar, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Calicut, 8th August 1878, No. 222.

In acknowledging the receipt of the Proceedings of the Board, dated 10th July last, No. 1,911, I beg to point out that in my letter, printed at the head of the Proceedings, I did not ask the Board to interfere in the management of the endowment therein referred to, but merely solicited orders as to whether, under the circumstances brought to light, I should not be justified in resuming the Inam.

2. It is observed that by paragraph 3 of the rules on the subject, "If the Inam was given for religious or charitable objects, such as the support of temples, mosques, colleges, choultries, and other public buildings, or institutions, it will not be subject to further interference, so long as the buildings or institutions are maintained in an efficient state."—*Vide* Standing Order No. 171, Dalyell's Edition.

3. On the facts found by my Acting Head Assistant, I was of opinion that a case had been made out, in which my interference in the matter above pointed out was expedient, and accordingly requested the orders of the Board, which I now beg to await.

From W. S. WHITESIDE, Esq., Collector of North Arcot, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Chittur, 18th September 1878, No. 278.

In forwarding herewith copy of Acting Sub-Collector's letter, No. 249, of 18th June last, which contains full particulars with regard to the proposed resumption of a Mahomedan religious Service Inam in the village of Thasupuram in the Arcot Taluk, I have the honor to recommend the measure advocated by Mr. Austin, as there seems to be no hope of the service being hereafter renewed, the musjid itself being no longer in existence. I request early orders on the case.

2. The Inam Title-deed, No. 503, dated 16th March 1861, is herewith forwarded for the perusal of the Board.

Enclosure No. 1.

From W. P. AUSTIN, Esq., Acting Sub-Collector, to W. S. WHITESIDE, Esq., Collector of North Arcot, dated Vellore, 18th June 1878, No. 249.

I have the honor to report the following case in view to the Inam therein referred to being resumed and charged with full assessment.

2. Inam Title-deed, No. 503, was issued in favor of the "Manager for the time being" of a musjid in the village of Thasupuram in Arcot Taluk, the grant consisting of 2·99 acres of wet land to be held tax free so long as the condition of "keeping up lights in the above musjid" was duly fulfilled.

3. One Mahomed Ummar last enjoyed this Inam and continued to perform the service attached to it until his death, which took place about three years ago. Since then no service is performed, the musjid itself, which appears to have been a temporary structure, has become ruined, and there only exist some remains of the walls.

4. The deceased left a minor son aged 12 years, who being also motherless is now under the protection of his maternal uncle Shaik Mohideen, a Naigue in the 1st Regiment of Cavalry stationed at Hyderabad.

5. Shaik Mohideen applied to the Tahsildar of Arcot on behalf of the minor, Mahomed Server, to have the Inam in question confirmed as a personal grant subject to quit-rent as the musjid in question had ceased to exist, and as it was impossible for them to restore it and continue the service stipulated in the grant.

6. An inquiry was held by the Tahsildar which confirms the fact that the musjid no longer exists, and that no service has been performed therein for upwards of two years,

7. Under these circumstances, I beg to recommend that the Inam may be resumed and a putta issued in favor of the lad, Mahomed Server, who is now in enjoyment.

8. The taram assessment of the land is Rupees 12-8-4.

9. The Inam title-deed and other connected papers are herewith submitted.

(True Copy.)

(Signed) W. S. WHITESIDE,
Collector.

ENCLOSURE No. 2.—Inam Title-deed.

NOTWITHSTANDING the wording of the rule quoted by the Collector, the Board are of opinion that by Act XX of 1863 they are divested of all power of interference with the land or property of religious institutions, and that the Government have no power to resume Inams granted for religious purposes, even though the conditions of such grants have not been observed; Section 4 of that enactment provides for the transfer to the trustees or managers of all landed or other property which at the time of the passing of the Act might be under the superintendence or supervision of the Board of Revenue or any local agent, and declares that their powers and responsibilities in respect to all land and other property so transferred shall cease and determine; no reservation is made as to the power of resuming such endowments on any pretext whatever. The law provides a specific remedy for any breach of trust, *vide* Section 14, and it would be manifestly no satisfaction to any person interested in the maintenance of a religious institution if Government on the complaint of misappropriation were to resume the endowment when under the procedure above referred to he can enforce the due execution of the trust and secure the punishment of the defaulting trustee or manager.

2. The Board are therefore of opinion that no action should be taken on the part of Government in the cases brought to notice, more especially as they believe that a Bill is now before Government which will deal with the whole subject with reference to G.O., dated 4th April 1876, No. 639, and the Government in their Order, dated 22nd August 1877, No. 2,553, deemed it undesirable to take any steps in a similar case of misappropriation pending legislation. As, however, the opinion of the Board as at present constituted is opposed to the view taken in G.Os., dated 28th August 1874, No. 1,098, and 3rd February 1877, No. 504, the case will be submitted for the orders of Government.

(True Copies and Extract.)

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

To the Secretary to Government, Revenue Department, with
one original enclosure in No. 8,207 of 1878 to be returned,
and copy of Board's Proceedings, dated 10th July 1878,
No. 1,911, and of its enclosure (translation of deed).
" Collector of North Arcot, with copy of
Board's Proceedings, dated 10th July 1878, No. 1,911.
" Collector of Malabar.

Exd. W. J. Lewis.

1526
7

1878.
Board of Revenue,
MADRAS.

To

THE SECRETARY TO GOVT.,
REVENUE DEPARTMENT,
&c., &c.

Dated October 3rd.

Printed 14th.

Received

PROCEEDINGS, 3RD OCTOBER 1873, No. 2,690.

OCTOBER.
No. 2,690.

Inams—granted for religious purposes.—Submitting to Government letters from Collectors of North Arcot and Malabar regarding resumption of —, and expressing opinion that no action should be taken on the part of Government in certain cases brought to notice.

Thittu granted by Pinturaikpon to the priest on behalf of the temple of Thippatimalai Venkitesvara Perumal Renkanayaka Swami.

The Devasam has set apart for the distribution of Canji to Brahmins Sattuchira Abhayam sowing 197 paras of seed & Karukat-kotai Abhayam sowing 190 paras of seed which make up in all Lands sowing 387 paras of seed. I hereby make over to the Devasam my right to 193½ paras of paddy due to me on the aforesaid lands as Rekhabbogam to be appropriated for the benefit of the Brahmins.

There is an oilpress worked at the watershed belonging to Sattuchira. I hereby resign my right to oil obtained from the aforesaid press which shall be appropriated for the ceremonies of the temple. Let this be enjoyed and these directions be duly carried out from the Month of Dhanu 941.

/True Translation/
(Sd) W. Logan
Collector

/True Copy/

A. Secretary

1926/7

No. 1,911.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th July 1878.

Read the following letter from W. LOGAN, Esq., Collector of Malabar, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Calicut, 21st June 1878, No. 170 :—

I HAVE the honor to report that certain inhabitants of Pudunagaram, Palghaut Taluq, have presented a petition to me stating that the present holders of the Pudunagaram Chuttrum have encumbered the property set apart for the maintenance of that charitable institution by mortgaging it, and consequently failed to render a proper use of the produce in the way indicated in the deed of endowment.

2. On inquiry through the Head Assistant Collector, copy of whose letter is herein enclosed, I am of opinion that the facts set forth in the petition are true to a certain extent.

3. I request the Board's orders as to whether I should interfere in this case and resume the grant allowed by Government.

4. A translation of the deed creating the original trust is herewith submitted.

ENCLOSURE No. 1.

From W. G. UNDERWOOD, Esq., Acting Head Assistant Collector, to W. LOGAN, Esq., Collector of Malabar, dated Palghaut, 28th February 1878, No. 154.

I HAVE the honor to report on the following petitions relating to the same matter :—

(1) Miscellaneous Petition, No. 785, dated 5th July 1876.
(2) Do. do. „ 1,010, „ 16th Aug. „
(3) Do. do. „ 1,491, „ 1st Nov. „

2. The report is based on—

(1) A sanad granted by the Zamorin of Calicut.
(2) A copy of the Inam title-deed.
(3) Depositions taken by the Palghaut Tahsildar.
(4) Do. do. Mr. Johnson.
(5) Two reports of the Palghaut Tahsildar.

The complaint is against the holder of Pudunagaram Chuttrum Inam for misappropriating the money and not rendering proper service.

3. The sanad states that the Zamorin resigns his Kavalpalam or fruits of guardianship, amounting to 193½ paras of paddy, to the temple for the benefit of Brahmins. It is due on Pattacheri (197 paras) and Kamkakodee (190 paras) fields. He also makes over for the feasts of the temple the produce of an oil-mill which may be established at the watershed in Pattacheri. The produce is to be appropriated from the year 941 Dancoo (1766 A.D.) The property is held in the name of Rungandaswami of Tripathy.

4. The Inam title-deed is No. 28, dated 25th July 1866. It is granted to the Manager for the time being of the Pudunagaram Chettayar Chuttrum. It is a grant of acres 22-12-0 of wet land to be held free of tax without interference, so long as the conditions of the grant are duly fulfilled.

5. The original sanad was granted in the year Hyder first came down and conquered the country on the invitation of the Rajah of Palghaut. The Inam, I presume, is intended to continue the sanad. If it be not so, there are no means for determining the purpose of the grant except what the petitioners say. Anyhow from all the statements the feeding of either travellers or Brahmins seems to be the object, and perhaps supplying some oil in the temple. The petitioners say the grant is (1) to supply the god with ointment; (2) to feed strangers; (3) the balance to be kept in reserve. So it is not easy to find out what the duties of the Inamdars are. What they seem to have done is now and then to give a little conjee-water. They seem to have the whole use of the land free, gratis, or nearly so, and no hardship would be inflicted if Government resumed the grant under the rules. If you are not disposed to recommend this, it would be a good plan to make the Inamdars submit accounts and try and prevent any further misappropriations.

6. There is the further question of the mortgages from the statements taken from the Inamdars. It appears that the land has been divided amongst five of them and that they have so far violated their trust as to mortgage the land heavily. The land now stands as follows :—

					RS.	A.	P.
(1) Tammanan Chetty has	150	seed paras	mortgaged for	... ...	5,915	0	0
(2) Krishnan Chetty has	50	do.	do.	... ...	2,571	8	0
(3) Annayan Chetty has	50	do.	do.	... ...	2,300	0	0
(4) Vadamala	80	do.	do.	... ...	2,600	0	0
(5) Venkitachalam and Narayanan have	50	seed paras	mortgaged.		2,300	0	0
			Total 330 seed paras ...		15,686	8	0

It appears that a good many of the mortgages were entered into by the predecessors of the present men. Tammany Chetty has managed the trust for the last six years and states that since the Collector's order, twelve years ago, no money has been raised on his share of the land. I hardly think after this lapse of time a prosecution for breach of trust would have much success even if it were held that such dealing with the property in their possession was a crime.

(True Copy.)

(Signed) W. LOGAN,
Collector.

ENCLOSURE No. 2.—Translation of Deed.

IT seems that the endowment in question was made for religious purposes (feeding Brahmins and providing oil for the temple), and the Board's responsibility therefore in regard to the proper application of the revenues derived therefrom determined on Act XX of 1863 becoming law.

(True Copies and Extract.)

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

To the Collector of Malabar.

Exd. A. Grubert.

1878.
Board of Revenue,
MADRAS.

PROCEEDINGS, 10TH JULY 1878, No. 1,911.

Encl.

Received

JULY.
No. 1,911.

Outturn — at Padunagaram in Palghaut Taluq, Malabar District. — Passing orders on letter from Collector requesting instructions regarding the resumption of the grant allowed by Government to the —.

Malabar Collr's office
Calicut 8th August 1878

No. 222

1976/8

From

W. Logan Esqre
Collector of Malabar

To

C. A. Galton Esqre
Secretary to the Board of Revenue
Madras

Sir

In acknowledging the receipt of the Proceedings of the Board dated 10th July last No. 1911 I beg to point out that in my letter printed at the head of the Progs I did not ask the Board to interfere in the management of the endowment, therein referred to, but merely solicited as to whether under the circumstances brought to light, I should not be justified in resuming the inam.

2 It is observed that by para III of the "Rules on the subject," "If the inam was "given for religious or Charitable objects, such "as the support of Temples, Mosque, Colleges "Chaultries and other public buildings or "institutions ..... it ..... will not be subject "to further interference, so long as the buildings "or institutions are maintained in an efficient state" — (Vide Standing orders No. 171

Balgetti

Dalyell's Petition).

3 On the facts found by my Aff. Head Assistant, I was of opinion that a case had been made out, in which my interference in the matter above pointed out was expedient and I accordingly requested the orders of the Board, which I now beg to await.

I have &c
(Sd) W. Logan
Collector

(True Copy)

Actg
Aff Secretary

Sby Bombay
Ex Statement

1526
9

No 278

North arcot Collectorate
Office Chittoor 18th Sept
1878

1926/0.

From

W. S Whitenside Esqre
Collector of North Arcot

To C. A Galton Esqre
Secretary to the Board of Revenue
Madras

Sir

In forwarding herewith Copy of Acting Sub Collectors letter No 249. of 18 June last, which Contains full particulars with regard to the proposed resumption of a Mahomedan religious Service Inam in the Village of Shapuram in the Arcot Taluq, I have the honor to recommend the measure Advocated by Mr Austin as there Seems to be no hope of the Service being hereafter renewed, the Musjid itself being no longer in existence, I request early orders on the Case

2 The Inam Title Deed No 503 of 16 March 1861 is herewith forwarded for the perusal of the Board.

I have &c
(Sd) E. J Hills
for Collector

From

Enclosure in Mr Rs
No 1926 Secy to Govt
P. D Fasli 1288 dated
1878 No 2090.

Rec'd 1883/78.

From Collector
Chittoor 17/8 Sept
1878

Letter No 278

No. 249

North Arcot Sub
Collr's Office Vellore
18th June 1878

From

W. S. Austen Esqre
Actg Sub Collector of North
Arcot

To W. S. Whiteside Esqre
Collector of North Arcot

Sir

I have the honor to report the following Case in view to the Inam therein referred to being resumed and Charged with full assessment

2 Inam Title Deed No. 503 was issued in favor of the "Manager for the time being" of a Masjid in the village of Thasunpuram in Arcot Taluq the grant Consisting of 2.99 acres of wet lands to be held tax free so long as the Condition of "keeping up lights in the above Masjid" was duly fulfilled.

3 One Mahomed Ummar last enjoyed this Inam and Continued to perform the service attached to it until his death which took place about 3 years ago. Since then no Service is performed, the Masjid itself which appears to have been a Temporary Structure has become ruined and there only exists some remains of the walls

4 The deceased left a minor Son aged 12 years who being also motherless is now under the protection of his Maternal uncle Shaik Mohideen a Naique in the 1st Regiment of Cavalry stationed at Hyderabad.

5 Shaik Mohidin applied to the Tahsildar of Arcot on behalf of the Minor - Mahomed Sermer - to have the Inam in question Confirmed as a Personal grant subject to quitrent as the Masjid in question had Ceased to exist and as it was impossible for them to restore it and Continue the Service stipulated in the grant.

6 An enquiry was held by the Tahsildar which Confirms the fact that the Masjid no longer exists and that no Service has been performed therein for upwards of 12 years

7. Under these Circumstances I beg to recommend that the Inam may be resumed and a puttah issued in favor of the said Mahomed Sermer - who is now in enjoyment

8 The taram assessment of the land is Rupees 12. 8. 4.

9 The Inam title deed and other Connected papers

papers are herewith Submitted.

I have &c
/s/ W. S. Austin
Ag Sub Collector

(True Copy)

/s/ W. S. Whiteside
Collector

(True Copies)

Ag Secretary

Ag Chamberlain

526
12

Rev: Department.

No. 2690

Proceedings of the Board of Revenue.
dated 3d October 1878.

Read again Boards Proceedings of 10th July 1878 No. 1911.

also letter from the Collector of Malabar of 8th August 1878 No. 222. & from Collector of North Arcot of 18th Sept. 1878 No. 278.

Notwithstanding the wording of the Rule quoted by the Collector the Board are of opinion that by act XX of 1863 they are directed of all power of interference with the land or property of religious institutions & that the Government have no power to resume Inams granted for religious purposes even though the conditions of such grants have not been observed; Sec. 4 of that enactment provides for the transfer to the Trustees or managers of all landed or other property which at the time of the passing of the Act might be under the superintendence or supervision of the Board of Revenue or any Local Agent & declares that their powers & responsibilities in respect to all land & other property so transferred shall cease & determine; no reservation is made as to the power of resuming such endowments on any pretence whatever.

Enclosure in Rev. Dept. to the Secretary to Govt. P.D. dated 3rd October 1878 No. 2690.

Rev. 4583/78

Letter from Collector of Madura dated 18th Sept. 1878 with Enclosure and Letter from Collector of Malabar dated 8th August 1878.

P.D. 3rd Oct. 1878 No. 2690

1826
14

whatever. The law provides a specific remedy for any breach of trust vide Sec 14, and it would be manifestly no satisfaction to any person interested in the maintenance of a religious institution, if Government on the complaint of misappropriation were to resume the endowment when under the procedure above referred to he can enforce the due execution of the trust & secure the punishment of the defaulting Trustee or Manager.

2. The Board are therefore, of opinion that no action should be taken on the part of Government in the cases brought to notice, more especially as they believe that a Bill is now before Government which will deal with the whole subject with reference to G.O of 4th April 1876 No. 639 & that the Government in their order of 22d August 1877 No. 2558 deemed it undesirable to take any steps in a similar case of misappropriation pending legislation. As however, the opinion of the Board as at present constituted is opposed to the view taken in G. Os of 28th August 74 No. 1098 & 3d February 1877 No. 504, the case will be submitted for the orders of Government.

/True Extract/

A. Secretary

To.
The Secretary to Government R.D.
with one orig! Encl: in No. 8207 of 1878 to be returned
+ Copy of Board's Proc. of 10 July 78 No. 1911 & of its Encl (translation of Deed)
+ Copies of Collector's letters.

Revenue Department

Statement for ordering

Board's Proceedings 28 Oct

from Collr of Malabar

and Collr of Madura regarding Rs

resumption of Inams attached

to religious institutions

Rs. 2690 dated 3rd October 1878.

The question here raised is —

Have Government the power to resume Inams granted for Religious purposes even though the Grantee may have enjoyed them for a long series of years?

Have not Inam Commissioners the power to resume Inams granted for Religious purposes even though the Grantee may have enjoyed them for a long series of years?

Have not the Civil Courts the power to resume Inams granted for Religious purposes even though the Grantee may have enjoyed them for a long series of years?

Have not the Board of Revenue the power to resume Inams granted for Religious purposes even though the Grantee may have enjoyed them for a long series of years?

Have not this Government, that is the

XX

G O 28 Aug 76 No 575 76
4 April 76 - 41-42 Ld
3 Feb 77 - 82-83
22 Aug 77 - 324-25

Revenue 1878 Deptt

No 4383.

Proceedings of the

Board of Revenue

Dated 3rd October 1878

Read 4 — do

Enc 4

1 Ord

El

G O No. 1926-27 November 1878

Submitting to Govt Bd's views with reference to letters from Collrs of Malabar & Madura regarding resumption of Inams attached to religious institutions

C 16-10-78
R 26-10-78 370

= 13 Nov 78 R 16 Nov 78

XX of 1863 has directed them (the Board) of all powers of interference with the land or property of religious institutions, that Section 4 of the Act provides for the transfer to the Trustees or managers of all such property and declares that the Board's powers and responsibilities in respect to it should absolutely and unreservedly cease and determine, that Section 14 provides remedy against breaches of trust and that the resumption of property by Government can give no satisfaction to any person interested in the institution and desirous of enforcing the due execution of the trust.

3. The previous orders passed on the subject are to the following effect.

Para III of the Inam Rules

that the opinion of the Law Officers should be of some value on the question - or that the action of Govt could be decided it. I would attempt to deal with the General question. Especially Shows an endeavour to obtain by legislation the creation of a Trust to administer Religious Endowments.

As regards individual questions of Endowments this appropriated I think this is a very palpable distinction between land administration by trustees of an Institution & in Still existing - & quasi this - appropriation of an Endowment granted for an institution Sc no longer exists. In the

038 S. C 171 Dalyell's Code.

latter case I don't think the State cannot hold & maintain an alienation of State property - I think in the former - I think it is for the Legislature further & enforce due administration.

The cases of the Govt. have dealt with during all I think be brought within last two years.

In the case of the Battalion Pagoday - the Trustee of the Temple is given by the act of Founder Managership during the discretion of Govt.

In that of the Madras Esplanade - the institution is not strictly of a religious nature - but when the action of the Govt. directed the Endowment of the Govt. merely discontinued it after

provides as follows.

"If the Inam was given for religious or charitable objects, such as the support of Temples, Mosques, Colleges, Choultries and other public buildings or institutions xxx it xxx will not be subject to further interference, so long as the buildings or institutions are maintained in an efficient state."

S. C 161 provides that when the cessation of service is recent, an opportunity of resuming discretion should be given to the Inamdar before recommending resumption for lack of service and that "care should be taken not to press such resumptions to such an extent as to make the rule unpopular among the people."

S. C 164 directs that "all Inam lands or money allowances

attached to Pagodas which have been abandoned or in a ruined condition, for twelve years or upwards should be incorporated with Government lands, from time to time as opportunity offers, without applying for Special Sanction."

S.O $\frac{171}{2}$ (33rd 1867) rules that "no Inam lands forming religious or charitable endowments should be sold for arrears of quitrent, without a reference to Government, through the Board."

S.O $\frac{171}{4}$ (xiii 13th 1871) so far modifies the above order as to dispense with the previous sanction of Government before selling for arrears of quitrent Inams forming religious or charitable endowments, and further provides that lands forming temple endowments should not be sold without

alienation.

In the present [illegible]
H. Rent Court, Madura,
the inspection of the Village
of the Thirupparankundram
to which Rs 4-8-0 is payable
as the Inamdar's contribution
to the Expenses of the
Car festivals, it appeared
that the Inamdar's opposition
for resuming or
Escheating it, proceeded
entirely from the
In the Fasli Accounts
it is debited. The
the Grant is for a Temple
or Charity. Nor is it
shown that the Institution
is not properly maintained
if it is a Temple Endow-
ment the Inam
Lis Pendens -
if it is a Charity the
Col. or Ld. Rt Board alone
Competent to enforce
due administration.
But the Endowt by the

Zamorin of Calicut Trustee
from Temple property.
from alienation for
disposal the right alleged
by the Chairman
Lessee of Temple Lands
is in full vigour.

The learned District
Officer informed.

[illegible]

33 of 1867 $\frac{171}{2}$

13 of 1871 $\frac{171}{4}$

1986/2

the permission of the Board
and without first allowing to
the Pagoda Committee an oppor-
tunity to settle the claim them-
selves.

S.O $\frac{171}{6}$ (dt 15th 1875) finally rules as follows

"In cases where arrears of
quitrent have accrued on religious
Service Inams, the ordinary process
of recovery by revenue sale is
inapplicable and Collectors should
in such cases apply for the Board's sanction
for the resumption of the Inams, having
first ascertained that the appropriate
managing Committee under Act
XX of 1863 are unwilling to take
up the Inam or to settle the
arrears due on it."

And the Board's previous orders
noted in the margin have been
cancelled by this order.

4. It is evident from the orders

quoted above that the Govern-
ment and the Board have all
along held that religious Inams
could be resumed either for
failure of service or for non-
-payment of Quitrent.

5. The Cases which have given
rise to the present Correspondence
are as follows.

One is from Malabar. An
endowment attached to a religious
institution - viz a Chuttram for
feeding Brahmins and providing
oil for the temple, has been
considerably encumbered by its
present holder and alienated
from the institution. The objects of
the endowment are not now fulfilled.
The Collector recommends resumption
of the grant under para 3 of the Inam
rules quoted above.

The second is from North Arcot.
In this Case a Mussjid for keeping

× Acres 2.99 Wet
assessed at Rs 12-8-4

in which
up lights, an Inam was given,
does not now exist and the
late holder having died 3 years
ago, no service is being per-
formed. The agent of his minor
son, aged 12 years, however
has applied that the Inam be
conferred on the minor as a personal
grant. The Collector and his
Head Assistant recommend
that the Inam be resumed, fully
assessed and then left in
the possession of the minor who
now enjoys it.

6. The Board think that no
action should be taken in these
Cases, pending legislation on the
subject, and as the Govern-
-ment have decided so in a
similar Case of misappropriation.
They are opposed to the views taken
in G. O. 28th August 1874 no 1098

× G. O 4th April 1876 no 639 P.D.

* G. O 22nd August 1877 no. 2553 P.D
paragraph 8.

and 3rd February 1877 No 504.

These orders authorized the re-
-emption of the Inam tenure
and the imposition of full assess-
ment in cases of misfeasance,
~~and more~~ although the proceeds
were to be appropriated for other
purposes of general utility, and
were in accordance with the
views then expressed by the Board
in the following terms.

"The Board have carefully
Considered the effect of Act XX
of 1863 with regard to this case,
but they have come to the conclusion
that there is nothing in that Act
to prevent Government from
enforcing its right to impose
full assessment on Inams held
conditionally when the conditions
cease to be fulfilled, even if
the Inams were granted as religious endowments"

1936/19

7. If the Board's present view be
accepted as correct, the following
orders will have to be modified.

(1) Paragraph 3 of the Inam rules
S.B 171 Batyell's Code.

(2) S.B 161 do - do

(3) S.B 164 do - do

(4) S.B $\frac{171}{6}$ (Cir no. 15 of 1875) do. do.

(5) G.O. 28th August 1874 No 1099
and 3rd February 1877 No. 504 Rev.

Submitted that
if there is any doubt
of the propriety
of the proposed
a reference should
be made to the
Law Officers.

YMM

E.H. 4383.

Memo for orders.

Regarding the power of Government to resume religious & charitable Grants

Rev. Dept.

1926/30

No. 1926

Proceedings of the Madras Government
Under date the 27 November 1878

Read the following
Proceedings of the Board of
Revenue, dated 3rd October 1878,
No. 2690.

His Grace the Governor
in Council does not think
it expedient to deal with
the general question while
endeavors are being made
to obtain by legislation the
creation of a Trust to adminis-
ter Religious endowments.

2. As regards individual
questions of misappropria-
tion of endowment there is

a

a palpable distinction be-
tween maladministration
by Trustees of an Institution
still existing, and quasi mis-
appropriation of an endow-
ment granted for an insti-
tution which no longer ex-
ists. In the latter case the
State cannot be held bound
to maintain an assignment
of State Revenue, in the form
or it is for those interested
to enforce due administra-
tion.

3. The cases with which
Govt. have already dealt
may be brought within
these principles.

In the case of the
Kattalai Malai Hills in
Tinnevelly

G.O. 3rd Sep. 1877 No 504. R.D.

Tinnevelly, the Trustee of the
Temple injured by the Act of
the Zemindar's manager
sought the intervention of
Government.

G.O. 28th August 1874 No 1098.
and subsequent correspondence.

In that of the Nadiam
Mattam in Tanjore, the insti-
tution was not strictly of a
religious nature, but it was
the action of the Govt. which
alienated the endowment
and the Govt. merely discon-
tinued it after alienation.

4. In the present North
Arcot case, His Grace the Governor
in Council directs the impo-
sition of full assessment as
the mosque or tomb no longer
exists, but in the first instance
the representative of the Zemin-
dar should have opportuni-
ty for repairing or restoring
it.

In

1826
22

5. In the Malabar case, it is not clear whether the grant is for a Temple or a charity, nor is it shewn that the Institution is not properly maintained. If it is a Temple endowment, the Govt. see no need to interfere. If it is a charity, the Collector or Local Fund Board seem competent to enforce due administration, but the endowment by the Zamorin would seem to be from Temple property for an allied purpose and if so the original assignment was not for the Chuttrum but for a Temple which may be in full vigour. The information furnished does not justify the interference of Govt.

14 To the Board of Revenue
Dec 5 De

G. D.

Report respecting
Petitions Letters &c
Westbury & North Cerney