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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

REVENUE DEPARTMENT

G.O. No. / ~~B.P. No.~~	1878	Press. / Mis.
Dated	2-8-1878 ~~197~~ .	

Not to be folded or roughly handled

1878
1

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

11th June 1878, No. 887.

Read the following paper:—

No. 126. Opinion of the Government Law Officers, dated Ootacamund, 18th May 1878.

THE law on the subject of Inams is governed by Madras Regulation VI of 1831 and the Pensions' Act (Act XXIII of 1871).

2. In the case of Service Inams, that is emoluments from lands, from fees in money or grain or other sources which have been annexed by the State to various hereditary and other village officers as wages for the performance of public services, the emoluments are not liable to attachment in satisfaction of decrees of Court (Section 2, Regulation VI of 1831).

3. Inams of other kinds are dealt with the Pensions' Act (Act XXIII of 1871). According to Section 4 no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, except as provided in the Act; and Section 6 provides that a Civil Court, otherwise competent, may try a claim relating to such pension or grant upon receiving a certificate from the Collector of the district or other officer authorised by the local Government that the case may be so tried, but shall not make any decree or order in any suit whatever, by which the liability of the Government to pay any such pension or grant is affected directly or indirectly. Section 11 enacts that no pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance shall be liable to seizure, attachment, or sequestration by process of any Court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

4. From the operation of the Act are excepted Inams mentioned in Section 1 of Madras Act IV of 1862, which have been enfranchised by the Inam Commissioner; that is to say, hereditary or personal grants of money or land-revenue, however denominated, conferred by the authority of the Governor in Council, or made by any native Government and confirmed by the British Government in consideration of services rendered to the State, or in lieu of resumed offices and privileges, or of Zemindaries or Polliems forfeited or held under attachment or management by the officers of Government, or as a Yeomiah or charitable allowance or as a pension. The effect of the enfranchisement of Inam property of this kind is that it is subject to the ordinary incidents and obligations of property, and suits may be brought, decrees given, and execution levied in respect of it.

5. The result seems to be that (except enfranchised Inams to which Madras Act IV of 1862 applies) the Civil Courts have no jurisdiction to attach or sell Service or other Inams or to attach pensions at the instance of a creditor of the holder. If the Court's have done so in any case, they must have been ignorant of the nature of the property in consequence of either lack of knowledge or concealment on the part of the parties to the suit. Any such proceedings of the Courts being without jurisdiction are wholly invalid, and can be set aside, and the property illegally attached and sold can be recovered by suit properly instituted for that purpose.

6. In the case of Service Inams, such erroneous proceedings of the Courts would seem very unlikely to happen, except by gross neglect of duty on the part of the subordinate revenue officials who should be able always to bring such proceedings to the notice of the Collector in time for that officer to apply to the Court for release of the property illegally attached.

(Signed) P. O'SULLIVAN,
Advocate-General.

(„) J. W. HANDLEY,
Government Pleader.

No. 127. ORDER THEREON, 11th June 1878, No. 887.

Miscellaneous.

G.O., 18th April 1878, No. 612.

IN their Proceedings, dated the 20th December last, No. 5,289, the Board of Revenue brought to the notice of Government a case in which a Service Inam was attached and sold by the District Munsif's Court of Bezwada in satisfaction of certain decrees of that Court, notwithstanding the objections raised by the village officers at the time of the sale, and requested that Government might address the High Court with a view to the issue of such instructions as would prevent the recurrence of such sales, as contrary to the provisions of Section 2, Regulation VI of 1831.

2. The Law Officers are of opinion that the service emoluments are not liable to attachment in satisfaction of Civil decrees; that the property illegally attached and sold can be recovered by a regular suit instituted for the purpose; and that vigilance on the part of the subordinate Revenue officials will enable the Collector always to apply to the Court for release of the property illegally attached.

3. The Government see no necessity for a reference to the High Court in the present case as the remedy is within their own reach, and accordingly direct that a regular suit be filed to set aside the sale and recover the Service Inam in question. They request the Board to draw the attention of Collectors to the concluding paragraph of the Law Officers' letter.

(True Extract.)

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

To the Board of Revenue.
„ the Advocate-General.
„ the Government Pleader.
„ the Government Solicitor

Exd. F. R. Bantleman.

1878
2

Govt. of [1878] Madras.

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated June 11th.

Read.

G.O., 11th June 1878, No. 887.

JUNE.

Nos. 126-127.

Certain Service Inam attached and sold by the District Munsif's Court of Bezwada, Kistna District.—Directing that a regular suit be filed to set aside the sale and recover —, and requesting the Board to draw the attention of Collectors to the concluding paragraph of the Law Officers' letter.

1878
3

No. 1,817.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 1st July 1878.

Read the following Proceedings of the Madras Government, dated 11th June 1878, No. 887, Revenue Department :—

ABSTRACT.—*Certain Service Inam attached and sold by the District Munsif's Court of Bezwada, Kistna District.*—Directing that a regular suit be filed to set aside the sale and recover —, and requesting the Board to draw the attention of Collectors to the concluding paragraph of the Law Officers' letter.

COMMUNICATED to all Collectors whose attention is called to the concluding paragraph of the Law Officers' letter. Village officers should be strictly enjoined to bring to notice at once cases of attachment of Service Inams in satisfaction of decrees of Court.

2. The Collector of the Kistna District will file a suit for the recovery of the Service Inams in question, and will submit a draft plaint for the Board's approval.

(A true Extract.)

Acting Secretary.

To all Collectors, with copy of Government Order.

Copy to the Secretary to Government, Revenue Department.

Exd. W. H. French.

B 11-6-48 & 126-27. Revenue Dept

No 3284

Ins 1878.

Board of Revenue,
MADRAS.

PROCEEDINGS, 1ST JULY 1878, No. 1,817.

Dup. 25/7/78
In 1878
Lodged 2 August 1878
Received 29 July 1878

Encl.

JULY.
No. 1,817.

Suit—for the recovery of certain Service Inam sold in satisfaction of the decrees of District Munsif's Court at Bezwada in Kistna District.—Requesting Collector to file a — and to submit a draft plaint on the subject, and directing that Village Officers be strictly enjoined to bring to notice at once cases of attachment of Service Inams in satisfaction of decrees of Court.