

(1) Number of pages 21(2) Date of repair 14th 5. 38(3) Initials of the Referencer F. S.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	3	Press
		~~Mis.~~
Dated	3 - 1 -	1880.

(origl)

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

3rd January 1880, No. 3.

No. 5. READ THE FOLLOWING PAPER :—

Proceedings of the Board of Revenue, dated 7th October 1879, No. 2,822.

ABSTRACT.—Passing orders on Collector's proposal to keep the Abkari Farm of Vissanapet Division in Kistna District under Government management for the present; forwarding to that officer papers regarding the practice of levying a separate tax on toddy-producing trees in Zamindaris; and calling for report as to the sites required for toddy shops with a view to the issue of a notification under the Land Acquisition Act.

No. 6. ORDER THEREON, 3rd January 1880, No. 3.

Separate Revenue, No. 1.
Abkari.

ADVERTING to paragraph 2 of the Board's Proceedings the Advocate-General is requested to advise what proceedings should be taken to prevent Zamindars impeding the establishment

of liquor shops (on which so much of the public revenue depends) through insisting on a *douceur* for their leave and license.

2. The village site (Nattam), like cemeteries and burning grounds, is included in the term "Purambok," or "excluded places," *i.e.*, exempted from assessment; and assuming that some authority must, in the first instance, regulate its use and occupation and that the Zamindar would be considered to be the proper authority—query, whether he is at liberty to derive a profit on the exercise of this duty, or to veto any tradesman setting up his shop in the Nattam, unless the same is objected to, on some reasonable grounds, by the village community.

3. The village site is no part of the cultivable waste, or of the immemorial waste; and was excluded—with all then existing Roads, cemeteries and the like—from the assets of the Zamindar at the Permanent Settlement, exactly like Inams, whether *lakhiraj* or paying a quit-rent (Section IV, Regulation XXV, 1802).

4. Besides prohibiting the practice for the future; may not steps be taken to claim compensation for injury in the past, taking up the worst cases?

(True Extract.)

Acting Secretary to Government.

To the Advocate-General, Madras, with two enclosures (to be returned).
„ the Board of Revenue.

Exd. W. H. French.

50 Copies.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th January 1876.

From H. Sr. A. GOODRICH, Esq., Acting Collector of Vizagapatam, to
H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated
4th December 1875, No. 2,118.

2. Petitions reached me during the months of September and October from several toddy renters, who complained that they are prevented by Zemindars and proprietors from drawing toddy from trees situated in their permanently settled estates without making a payment to such Zemindars under the name of Modulapannu, and that in many cases it is this year sought to enhance the rate at which this payment has been made in past years.

4. In reply to my letter the Dewan states that the demand is a customary one and is levied as assessment on the land occupied by palmyra and date trees, but not as Abkâri.

6. I submit a statement showing the present demand which the renters report to be made upon them by Zemindars and the contract price realized by the toddy farms at the last auction.

8. If the Zemindar be acknowledged to possess the right to demand any payment at all some strict limits to his claim must be laid down, for if the demand be held liable to enhancement at his will he can enhance it to such a point as to divert to himself the whole of the Government revenue derived from this source.

10. My own opinion is that the Zemindars are debarred by the law as it stands from making any demand whatever from the renters of the Government toddy contract. The following considerations led me to this conclusion.

When Joseph V. Bonomo, Assistant Secretary of the Internal Market, is informed by a manufacturer that he is unable to produce a sufficient quantity of a product to meet demand, he is asked to keep the situation confidential. He is not to discuss the matter with the press, and he is not to discuss it with other officials. He is to be referred to the Assistant Secretary for further advice on the subject.

1871
Nov. 20

THE ADVENTURE OF THE
600

Sept. 11 1880

u. 60-96/80 12-7-1977
 " 5248 - 12-8-77
 " 5062 - 12-7-80 2287
 " 2247 - 12-9-77

referring to Mr. Smollett's letter of 2nd December 1856, reviewed in Proceedings of Board of Revenue, dated 28th February 1859, No. 734, the Board observe that rights to trees on the land or any other particular item may be reserved to Government without affecting the proprietorship of the landowners. In these same Proceedings the Board argue at length that sound policy demands the abandonment of vexatious claims over trees situate in ryotwari holdings and lay down rules which have been in substance adopted, but which are from the time of their being framed specially declared to be inapplicable to Zemindaries.

In estates permanently settled it must be inferred that the law as it stood before 1858 was unaffected by the new liberal policy adopted and declared in Circular Orders, dated 14th April 1859. The Extract Minutes of Consultation, dated 14th March 1859, quoted in that Circular Order mentions that before that date the illiberal and wrong practice of claiming all trees as absolutely the property of Government is found to grow in intensity towards the north, and exists in its highest development in Ganjam and Vizagapatam.

12. I believe then that whilst, by the policy of 1859, date and palmyra trees in Putta and Inam lands and, in backyards were made the property of the holders of such lands by putta from Government Taluqs, that policy and the regulations resulting did not affect permanently settled estates, and all date and palmyra trees in such estates, whether on waste or occupied lands, are the property of Government and leased by Government to their renters at the periodical sales of the toddy contract.

13. Even if, as the Dewan of Vizianagram contends, Modullapannu is a payment claimed for the land occupied by the trees whereupon toddy is drawn but not for the toddy itself, not the Zemindar who receives stated sums, assessment, or Kattuhady for the whole land but the occupier who should claim such payment.

14. There is a diversity of practice as to Modullapannu in the different Zemindaries; in some the renters in some the sub-renters pay, in some the rate is high in some moderate, in some no payment has yet been made, in some regular written agreements are taken in others not.

15. I submit for the Board's perusal copies of two of the returns made by renters of taluqs to my reference and of the letter of the Dewan of Vizianagram, and recommend that I be authorized to notify to renters and Zemindars that no payment is claimable by the latter from the former. I do not doubt my authority under existing laws and orders to make this notification, but prefer to make this report as the Board may desire to consider the matter with a view to taking security against cutting trees if such steps be thought necessary. My own opinion is that renters may be trusted to make it worthwhile for villagers to maintain trees, and the sums now levied by Zemindars are not yet so considerable that the forbidding their levy will cause any great irritation.

ENCLOSURES Nos. 1 and 2.—Copies of Petitions from Toddy Contractors.

ENCLOSURE No. 3.—Translation of letter from Dewan of Vizianagram.

ENCLOSURE No. 4.—Statement of Toddy Farms.

From H. St. A. GOODRICH, Esq., Acting Collector of Vizagapatam, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 16th December 1875, No. 2,241.

AFTER the despatch of my reference to you, No. 2,118, dated the 4th instant, regarding the question of "Modullapannu," I received the accompanying telegram from the toddy renter of Cheepurapilly Taluq, and thereupon sent Circulars requesting the Zemindars and proprietors in that taluq to abstain from making any demand for the present, such demand being forbidden to them under Section 4 of Regulation XXV. of 1802. I also told them that should they desire to support their claim to such demand I would lay any representation they may make before the higher authorities.

2. In answer to that I received two representations from the Dewan of Vizianagram and Proprietrix of Shermahomedpuram, which I have the honor to forward herewith.

ENCLOSURE No. 1.—Copy of Telegram.

ENCLOSURE No. 2.—Copy of Arzi from Dewan.

ENCLOSURE No. 3.—Copy of Arzi from Proprietrix of Shermahomedpuram.

THE Board do not agree with the Acting Collector's views, and cannot approve of the action which he has taken in reference to the so-called "Modullapannu."

2. The payment to the Zemindars seems to be, as is represented, a payment of the nature of rent for the trees or for the land on which they grow, and Section 4 of Regulation XXV. of 1802, has, in the Board's opinion, nothing to do with the matter. The orders of 1859 did not apply to Zemindaries and proprietary estates because the Government had no power to interfere regarding them; and not, as assumed by the Acting Collector in paragraph 12, because the trees in such estates were reserved as Government property. The Board observe with reference to paragraph 13 that there would be nothing extraordinary in the tree tax being payable to the proprietor and not to the occupier of the land on payment of assessment; but with such matters the Collector has no concern in the present case.

3. Mr. Goodrich will be instructed by telegraph to withdraw all interference between toddy renters and Zemindars in regard to "Modullapannu."

(True Copies and Extract.)

(Signed)

H. E. STOKES,
Acting Secretary.

To the Acting Collector of Vizagapatam.

Exd. J. Tulloch.

No. 2,197.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 1st August 1879.

Read the following letter from J. G. HORSFALL, Esq., Collector of the Kistna District, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Masulipatam, 25th July 1879, No. 1,640:—

I HAVE the honor to report that Viranki China Pantulu, Arrack Renter of Vissannapeta Division, having fallen in arrears Rs. 2,430-2-0 by the end of May 1879, the farm has been taken under Government management from 9th June and an advertisement published in the District Gazette Extraordinary Supplement, dated 5th July, for its resale on the 25th July 1879 at the risk of the defaulter. I have sent copies of the advertisement to the Collectors of adjoining districts for publication in their Gazettes as directed in Board's Proceedings, No. 1,328, dated 17th May 1879.

2. The defaulter is a resident of Ellore, Godavari District. Several applications were sent to the Collector of that district for the recovery of the arrear from the defaulter, who failed to pay kists on due dates. He has also been warned several times against the non-payment of the rent according to the conditions of his lease. There is a deposit of Rs. 1,250 available, which will be credited towards the liquidation of the arrear. A notice was issued to the defaulter on 1st July that if he failed to pay the arrear, together with the management and other charges before the day fixed for resale, his lease would be cancelled, or he should consider himself to have forfeited his right in the contract.

THE result of the resale should be reported in due course. Arrears should not have been allowed to accumulate in excess of the deposit.

(A true Copy and Extract.)

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

To the Collector of the Kistna District.

Exd. A. F. Goodall.

1876.

Board of Revenue,

MADRAS.

PROCEEDINGS, 7TH JANUARY 1876, No. 34.

Encl.

Received

JANUARY.

No. 34.

"Modulapannu" or cess on Date and by Zemindars and other Proprietors in Vizaga District.—Disagreeing with the Acting Collector's views in regard to —, and directing him to withdraw all interference in the matter.

No. 2,822.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 7th October 1879.

Read the following letter from J. G. HORSFALL, Esq., Collector of the Kistna District, to C. A. GALTON, Esq., Acting Secretary to the Board of Revenue, dated Masulipatam, 28th July 1879, No. 1,693:—

In continuation of my letter, No. 1,640, of 25th instant, I have the honor to report that, on putting up this day* at

* 25th July 1879.

at auction the arrack farms of the Vissanapet

Division at an upset price of Rs. 3,000 per annum, no bidders came forward, and that, as the farm sold for Rs. 5,000 on the last occasion, I did not feel justified in still further reducing the upset price. I propose, therefore, for the present to keep the farm under management.

2. The reasons alleged by those attending the sale, who were chiefly renters of other farms in the district, were that Vissanapet is a Zemindari Division and that the Zemindars demand from the renters one-fourth the sale amount for the privilege of establishing shops in their village sites, as well as impose a separate tax upon the toddy trees in their zemindaris.

3. I find from the Nuzvid Estate accounts that large sums were paid to the late Zemindar on this account.

4. As to the first charge I entertain no doubt that it is totally illegal and that the Zemindars are not competent to prohibit the setting up shops within their village sites, seeing that these were excluded from the permanent settlement; but it has been usual of late years to leave the Zemindars to deal with the village sites in their estates as if they were their exclusive property. It was not, however, intended, I think, that the abkari should be thus turned to the profit of the Zemindars of this district.

5. It seems to me that the evil—for it is an undoubted evil—can only be remedied by the Collector assigning sites for shops in such villages; and, if the Board approve, I will make this generally known. In the Gudur Parganah of the Valloor Zemindari there is, I understand, not a single shop established because the present renter refused to pay the Zemindar a douseur of some Rs. 7,000 for this privilege.

6. I have no doubt that the Vissanapet Farm will bring the upset price if some remedy is supplied for the evil complained of.

The practice of levying a separate tax on toddy-producing trees appears to prevail generally in the Northern Zemindaris, and the Board have decided that it is not an infringement of Section 4, Regulation XXV of 1802; the Collector will be furnished with copy of Board's Proceedings, dated 7th January 1876, No. 34, on this point. If the trees are on unoccupied waste, the Zemindar is entitled to arrange his own terms of rent under Act VIII of 1865, and, if they are situated on land held on putta, the ryots can contest any unreasonable demands of the Zemindars.

2. As regards the charge for opening toddy shops on village sites, it is observed that the right to regulate the appropriation of village sites in zemindaris was not claimed by Government when the rules of 1873 were issued (*vide* S.O. No. 39). The Board think the best method of preventing the charge brought to notice will be the acquisition of as many shop sites as are required under the Land Acquisition Act; the sites could then be leased to the abkari renters for a moderate rent. The Collector will report how many sites are required and furnish the necessary particulars with a view to the issue of a notification under the Act.

(A true Copy and Extract.)

Acting Secretary.

To the Collector of the Kistna District, with copy of Board's Proceedings, dated 7th January 1876, No. 34.

Copy to the Secretary to Government, Revenue Department, with copies of Board's Proceedings, dated 7th January 1876, No. 34, and 1st August 1879, No. 2,197.

Exd. J. W. Fischer.

1879.
Board of Revenue,
MADRAS.

To

The Collector of the
KISTNA DISTRICT.

Dated August 1st.

Printed 7th.

Received

PROCEEDINGS, 1st AUGUST 1879, No. 2,197.

AUGUST.

No. 2,197.

Arrack Farm — of Vissanapeta Division
Kistna District.—Directing that the result of the
proposed resale of the — be reported in due
course.

C. N. 7371
 Board's Res. d/7th October 1879
 No. 2822.

Please see the Hon. W.
 Huddleston's remarks on the above
 paper.

With reference to the Hon. Member's enquiry, it is submitted that the Board do not allude to any rules relating to "sites for toddy shops" but they say that "the right to regulate the appropriation of sites in Zamin daries was not claimed by Government when the rules of 1873 were issued (vide S. O. no. 39)". The S. O. no. 39 is the same as Circular Order IV of 1873 which was based on G. O. 16th December 1872 no. 1684 where Collectors were instructed "to reassert the prerogative of Government by making it known

Office note

What are the orders of 1873 about sites for toddy shops to which the Board allude.

But then the Board have drawn a long inference from the G.O. of 16th Dec. in assuming that the Govt. think by recognizing any right in Zamin daries & drive any in with from the occupation

1879. 1873-74.

BOARD of Revenue,
 MADRAS.

THE COLLECTOR OF THE
 KISTNA DISTRICT.

Printed 20th.

PROCEEDINGS, 7TH OCTOBER 1879, No. 2822

OCTOBER 1879

No. 2822.

Alkali Farm — of Vissanpet Division in Kistna District. — Passing orders on Collector's proposal to keep the — under Government management for the present; forwarding to that officer papers regarding the practice of levying a separate tax on toddy-producing trees in zamin daries; and calling for report as to the sites required for toddy shops with a view to the issue of a notification under the Land Acquisition Act.

In G.O. of 3rd Jan'y 1880: 3

that, except in Zamindari, Mirasi, and villages which are private property, sites on the Gramanattam are not to be appropriated without permission" &c. The Government further observed "In purely Mirasi villages, where the entire area belongs to the Mirasidars, the Gramanattam no doubt appertains to them equally with the other Boramboles, but these cases are exceptional."

The original of the G. O. above quoted is put up; from it, it will be seen that the order was based on the Honble J. D. Sims' note and that the question though an important one had not gone before the other Honble Members of Government.

It is the above order which precludes the appropriation of vacant village sites in permanently settled estates for toddy shops and which has necessitated the

of some sites for building godowns or residences - in the Grama Entam by anyone resident in the village.

The Entam is La-Khiraj land. The fact that Govt. in Dec 72 did not permit that the sanction of officials was necessary for the

fact that Govt. in Dec 72 did not permit that the sanction of officials was necessary for the

approval of sites in the Entam in Zamindaris did not transfer the control to the Zamindars but merely left it as his right in the hands of the Village Community concerned - according to the

fact that Govt. in Dec 72 did not permit that the sanction of officials was necessary for the

Board's present proposals to acquire as many shop sites as are required under the Land Acquisition Act. Prior to the issue of the above order, it was always understood that Grama Entams and other Boramboles in permanently settled estates were entirely at the disposal of Government, having been reserved at the permanent Settlement for public requirements.

I think we are bound to go to our own shops & procure more of these Zamindars for unimpeding the estate of these shops. Govt. must say in a document for being leave & license. The amount of Revenue if it chooses. 24/11/24

involved is very serious -
because he is convenient
to a thirsty public.

I do not indeed agree that the
reason of his not being allowed
to charge for the land is
because it is La-khura, which
I take to be 'manjams' either
village, or otherwise; but
because the village site, like
the site for cemeteries & burning
grounds is Perumbok -

i.e. set apart as far back as
the foundation of the village,
for a certain public use.

The question of course arises,
who is (primarily - subject
to the remedy at every one aggrieved
proposes - of a resort to the Courts)
to regulate these uses? We claim
it in Govt. villages; may not be
Zamindars be proper persons in
the villages of his Estate?

I believe a Court will decide as
follows: -

- 1) The Zamindar is the Regulator -
- 2) but can make no charge; it is
bound to consult the rights &
conveniences of all concerned.
- 3) Those aggrieved by his decision
have the usual remedy.
- 4) Any fees exacted to be refunded;
& being very distinctly illegal.

Finally, unless we are to fight in every refusal we get from a
Zamindar - there is no other way than the
Bois, acquiring the site for shops under the Act.
R. 2/12/77 R. 25/11/79 R. 27/11/79
20/11/79

The question is not
without difficulties.

Govt. have power to
levy a tax on the
sale of fermented
waddy - and to
furnish any one
who manufactures
it sells without
license having paid
the duty - &c. -
and have ^{also} taken
power to farm out
these duties -

but by the law the
entertainment of
shops is left to the

the law to provide

1871

arrangement of the
renter subject to
decision & approval
of the Master.

If the Renter does
not propose a shop there
is under our contracts
no power to compel him
to open one -
We do think the
Law gives such power
except as part of a
bargain -

The Law certainly
does contemplate
that a man should
be bound to open
his house as a ^{wholly}
shop.

The Law has been
repeatedly passed on

Landlords! but in the case
of the Renter the Law
does desire to have
a shop in the premises
but the Renter refuses
illegally to allow a site to
be occupied for the purpose
unless he is to have a
bonus for the concession.
The power to grant or withhold
it does not belong to him
by Law. A householder
is to be a householder
to give a shop if
he does not want to do
so. &c.

The presumption that if
there is a demand by
the public for a shop
some one will provide
it is not open one.

The population being
sufficient to require to
prevent the sale.

Now if a Landlord
says - as many a Landlord
in England says - I
do not want a shop in my village
& people that my people
should not have facilities
for purchase of food.

He is at perfect liberty
to do so - at least I
can find nothing in
the Law to prevent him.

Only the Renter can
open a shop.

Landlords are
limited landlords &
have not in my opinion
any such power as
his Grace supposes. or
any voice in the matter
except that
if a Renter wants
a site or a site
in a Renter's
as a site for a shop
he is liable
to pay a rent to
the Renter.
But the

And as regards using
the land acquisition
act - for the purpose
I think it would be
a protection of
the act - to apply it
for the benefit of the
renter - and such
amendment to the law
be the purpose for which
the act would be put
in force -

The remedy for the
state of things ~~described~~
is - ~~to be~~ - to
be found in a strict
enforcement of the law -
If the people obtain
their supplies from the
shops of monopolizing

abstain - then
 I want illicit consumption - there is no necessity for
 an additional shop -
 in opening & assisting
 its establishment. If it is found that
 or in justifying the existing illicit sale goes on
 of illicit consumption then means should
 be devised to suppress it
 the Executive Agent. by ~~the~~ the law - and
 of the village. - driving this will bring a demand
 there for a distinction in a shop - & an offer
 kind liquor or to illicit means of selling it.
 by some one to keep a
 then one -
 L.R.

and Except taking special
measures in cases when
opening of stops has been
injured, to detect
illicit dealing - I
would not move -

The Black mail - or
whenever the circulation

Money asked of Zem.
 May be termed, as
 a very natural outcome
 of the farm letting &
 auction system -
 Would be better have
 invited such other - i.e.
 Messrs. & Zemindars
 or have tried the
 latter with a view
 to give a competitor -

The Zem. does not
 seem to object to
 the system - gets the
 money in either case -
 And I do not see
 that he in any way
 infringes the law -

1/11/77

Res. to the Hon.
 Member of Council for
 period of 10. 11. 77
 for remarks.
 4/12/77 J.S.

He knows it is a
 duty for him to do so
 & is excluded from the
 assets of the farm. But
 this demand is positively
 illegal. I have no
 objection to Mr. Jamnicks
 suggestion of prosecution
 to check the proposition.

R.S.

50 of 3 January 1880

Prop. B. & Rev. 7th Oct/77
 No 2822

Downs agreed in council, to refer to Adv. Gen.
 The reference may be run thus:
 "Adv. Gen. to Para 2 of the Adv. Gen. will
 be requested to advise what proceedings should
 be taken to prevent Zamindars impeding the
 estate of these shops (on which so much of the
 public revenue depends) through existing or
 a doucane for their lease & license.
 2. The village site (Natham), like Cametaries &
 burning grounds, is included in the term "Natham",
 or "excluded places" i.e. excluded from a Zamindar's
 and assuming that some authority must, in the
 first instance, regulate its use & occupation &
 that the Zamindar will be considered to be the proper
 authority - query, whether he is at liberty to derive a
 profit on the exercise of this duty, or to exercise veto
 any tradesman setting up his shop in the Natham,
 unless he same is objected to, on some reasonable
 grounds, by the village community - 3. The.

William's Glensy (p. 4. 11. 77)

3. The village site is no part of the
cultivable waste, or of the immemorial
waste; and was excluded - with all the
existing Roads, cemeteries & the like - from
the assets of the Zamindars at the Part Settlement.
~~quicker than~~ Exactly like Farms,
whether 'Catching' or paying a quitrent
(Sect IV, Reg. XXV, 1802).

4. Besides prohibiting the $\$400000$
practice for the future; may not steps be taken
to claim compensation for injuries in the past,
taking up the worst cases?

30/12/21 ~~Jeff~~
J.H.S.

At S. to The Advocate Genl. Madras
with 2 Encl (Memoranda) Dtd 5/1/80
" Board of Revenue.

50
61.

Recd 1880/Sept.
P. 4 of 3 Jan 180 No. 3

PRINT

Back no 5

5-6