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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

Spore Copy

G.O. No.	<i>744</i>	<i>Spore copy</i>
~~B.P. No.~~		Press ~~Mis.~~
Dated	<i>30-8-1889</i>	<i>196</i>

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30TH AUGUST 1889, No. 744, REVENUE.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Land Revenue), dated
9th April 1888, No. 355 :—

W. S. WHITESIDE, Esq., C.S.

Read—the following letter from L. R. BURROWS, Esq., Collector of Nilgiris, to
the Secretary to the Commissioners of Land Revenue, dated Ootacamund,
24th March 1888, No. 141 :—

The late Mr. John Hodges was the owner of two pieces of land in Ootacamund,
with a house known as Prospect Lodge built on one of them (settlement No. C-172).
The particulars according to the late revenue settlement are as follows :—

—			Area.	Assessment.
			ACS.	RS. A. P.
C-172	...	...	8.56	11 8 9
C-173	...	...	4.77	4 2 5
Total ...			13.33	15 11 2

They were held by Mr. Hodges under a lease for 99 years granted by the East India Company, bearing No. 123 and dated 17th April 1846, on which a memorandum is written as follows :—

“There is now only one dwelling-house on the land referred to in this instrument. It is agreed that in the event of there being more dwelling-houses than one erected thereon hereafter one cawni (= acres 1.32) on account of each dwelling-house shall be liable to be assessed at Rs. 5-4-0.”

2. Mr. Hodges died in January 1886, bequeathing by will settlement No. C-172, acres 8.56, to Mrs. Alice Salmon with the house thereon, and settlement No. C-173, acres 4.77, on which there is now no building, to Colonel F. S. Fitzpatrick, by whom the land has recently been transferred to Mr. C. Sabapathy Iyah.

3. Messrs. Cowdell and Winterton have now applied for permanent pattas in the names of Mrs. Salmon and Mr. Sabapathy Iyah for their respective lands with the house.

4. Paragraphs 1 and 16 of Standing Order No. 33 authorize the issue of permanent pattas for "lands occupied by dwelling-houses or factories and for lands occupied or intended for gardens or plantations properly so called."

5. The land purchased by Mr. Sabapathy Iyah does not fall within the above description as it has not yet been built upon, nor is it a plantation or garden properly so called, and I am writing to Messrs. Cowdell and Winterton that the permanent patta cannot be issued.

6. The present reference has arisen in connection with Mrs. Salmon's property, C-172. This number, as above said, measures 8.56 acres, with only one dwelling-house on it. It is assessed as follows:—

	RS.	A.	P.
For the dwelling-house, 1.32 acres at Rs. 3-15-8 per acre	=	5	4 0
For the remainder, 7.24 acres at „ 0-13-11 „	=	6	4 9
Total ... 8.56		11	8 9

The question is, if a permanent patta can be claimed by the owner, what amount should be entered in it as payable thereafter in perpetuity. The rules are silent on this point; but the form of patta, clause 1, and paragraph 3 of Board's Proceedings, dated 21st June 1883, No. 1801, disposed of in G.O., No. 897, dated 23rd July 1883, Revenue, indicate that the assessment should be the same at which the property is now assessed. The lease on the other hand stipulates, as stated in paragraph 1, a payment of Rs. 5-4-0 per cawni (acres 1.32) for every fresh dwelling-house which may be erected on the land. The grant of a permanent patta now will preclude Government from claiming the enhanced assessment when additional dwelling-houses are erected. I beg the Board's instructions on the point.

7. Speaking generally, building sites in the towns which are held on leases issued in former years are assessed at Rs. 3-15-8 per acre for the first cawni or 1.32 acres on which a dwelling-house is erected, and at annas 13-11 per acre on the remainder of the holding. Where no leases have been obtained, the rates are, respectively, Rs. 4 and Re. 1 per acre. I think in the case of dwelling-houses, of which the site exceeds 2 acres, half the area should be assessed at Rs. 3-15-8, or Rs. 4, as the case may be, and half at the lower rate, and entered in the permanent pattas when applied for. Two acres is a fair extent for an average dwelling-house in the Ootacamund settlement. If some rule like this is not adopted, a permanent patta might be applied for in cases where the site is very extensive, e.g., Woodlands or the Cedars.

8. Should the principle above stated meet with the Board's approval, the assessment to be entered in the permanent patta for the particular case in point would be as follows:—

	RS.	A.	P.
Acres 4.28 at Rs. 3-15-8 per acre	=	17	0 6
„ 4.28 at „ 0-13-11 „	=	3	11 6
8.56 total.		20	12 0

Resolution—dated 9th April 1888, No. 355.

The Collector's decision, reported in paragraph 5 of his letter, is approved.

2. Paragraph 16 of Standing Order No. 33 speaks of granting permanent pattas "in lieu of the yearly pattas hitherto granted." The land in regard to which the Collector asks for orders is held on a 99 years' lease, which reserves large reversionary rights to Government. It may be doubted whether the rules were intended to apply to such lands. Paragraph 5 of the Standing Order contemplates redemption of assessment on lands held on lease, but only with the sanction of the Board. This sanction they are not disposed to accord. The existing title is a good one and quite

marketable, but it reserves to Government reversionary rights which the Board would not be justified in throwing away.

(A true Copy and Extract.)

(Signed) H. A. SIM,
Acting Secretary.

To the Secretary to Government, Revenue Department,
„ Collector of the Nilgiris.

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 26th September 1888, Mis. No. 5786:—

W. S. WHITESIDE, Esq., C.S.

Read—the following letter from the Collector of Nilgiris, dated 8th September 1888, No. 398:—

With reference to Board's Proceedings, dated 4th July 1888, Mis. No. 4044, I have the honor to submit a statement showing the properties in this district now held on 99 years' leases. It is compiled from the printed settlement registers.

Read—also official memorandum from Government, Revenue Department, dated 13th September 1888, No. 64-R.

Resolution—dated 26th September 1888, Mis. No. 5786.

Submitted to Government with reference to their official memoranda, dated 25th June and 13th September 1888, Nos. 72 and 64-R.

2. It will be seen that the area is considerable and that in many cases half the time has already expired.

(A true Copy and Extract.)

(Signed) H. A. SIM,
Acting Secretary.

To the Secretary to Government, Revenue Department,
with statement, in original, to be returned.

Copy to the Collector of Nilgiris.

Read—letter from the Deputy Collector of Madras, dated 22nd December 1888, No. 2045.

Abstract.—Forwarding a 99 years' lease as called for.

Read—the following letter from Messrs. COWDELL and WINTERTON, Ootacamund, to the Chief Secretary to Government, dated Ootacamund, 17th January 1889:—

We have the honor to forward herewith a petition signed by Mr. C. Sabapathy Iyah, Mr. T. L. Browning as the attorney of Mrs. Salmon, and several other persons in reference to the grant of permanent pattas for lands and houses comprised in leases of the Honorable East India Company.

ENCLOSURE.

To .

THE RIGHT HON'BLE ROBERT BOURKE, LORD CONNEMARA,
Governor and President in Council, Fort St. George.

The humble petition of MRS. ALICE SALMON of
35, Vanston Place, Walham Green, London,
and of MR. C. SABAPATHY IYAH, Barrister-at-
Law, Chudderghaut, Hyderabad, and of the
other signatories to this petition and the
schedules thereto.

SHEWETH,—

Your petitioners are the holders of property under leases granted by the late East India Company which are generally similar to that hereinafter particularly mentioned. Your petitioners are concerned to find that in a recent case the Collector of Nilgiris has been ordered to take a retrograde step and to refuse to renew these leases, at or after the renewable periods, by the grant of permanent pattas, as has hitherto been the practice.

2. The particulars of the case in which the order has been passed are given below, as it is a typical case and as the proceedings hitherto have been connected with it, but your petitioners finding that their interests have been jeopardised by the order in question, join in this petition to avoid multiplicity of proceedings, and to show that there is a general consensus of opinion in this district regarding the prejudicial character of the order in question.

3. The Honorable East India Company by a grant or lease, dated the 17th April 1846 and bearing No. 123, leased to the late Mr. John Hodges of Ootacamund a piece of land at Ootacamund for a house site, measuring 8 cawnies 15 grounds and 370 square feet, now bearing survey Nos. C-72 and C-73, and known as "Prospect Lodge," for a term of 99 years at the yearly rent of Rs. 13-15-11, renewable after the expiration of every 30 years, on payment of Rs. 7-4-2 and subject to the other special and peculiar and now obsolete conditions specified in the said lease which is annexed hereto. Mr. John Hodges during his lifetime enjoyed the said property, paying the rents therefor in pursuance of the said lease, but the said lease was not renewed in the year 1876, as provided by the terms thereof. Mr. John Hodges bequeathed the said house, known as "Prospect Lodge," being part of the property comprised in the said lease, to a certain Mrs. Alice Salmon and other part to a certain Colonel Fitzpatrick. Mr. Hodges died on or about 19th January 1886, and subsequent to the grant of probate ordinary pattas were granted to the said Colonel Fitzpatrick and Mrs. Alice Salmon. Colonel Fitzpatrick conveyed his portion of the property to a certain Mr. C. Sabapathy Iyah by a deed of sale, dated 8th February 1888, the vendor undertaking to concur in obtaining a permanent patta for the property. Mrs. Alice Salmon, on or about the 14th February 1888, made an application to the Collector of Nilgiris, praying for the grant of a permanent patta in the place of the said obsolete lease for her portion of the property and Mr. C. Sabapathy Iyah made a similar application for his portion and then (on objection being raised to such application *) for

* That such land was only part of, and not, an estate.

the whole of the "Tudor Hall Estate," including the said portion. After intermediate letters, the Collector, on the 24th March 1888, by his letter, No. 526, intimated that he had referred the matter to the Board of Revenue and prescribed certain formalities to be complied with before the application for a permanent patta could be entertained, and on the 16th May 1888, in his letter, No. 839, informed the parties concerned that the Board of Revenue had decided that a permanent patta for the "Prospect Lodge" property could not be granted. On the 18th May 1888, Mrs. Salmon again addressed the said Collector, explaining the terms of the lease of 1846 and praying for a renewal of the lease and the Collector in his letter, No. 923, dated 29th May 1888, asked for an explanation more definitely of what was required to be done and on the 30th May 1888 her solicitors urged that a renewal was properly claimable and appeared desirable, but the Collector replied by his letter, No. 951, dated 6th June 1888, that the lease was renewable in 1876, 1906, and 1945, and that he would advise the applicant to ask for a renewal in 1945. Such reply from the Collector was so far unsatisfactory that it omitted to notice that the leases according to their terms required to be renewed at the expiration of each of such periods whilst they contained provisions and prohibitions, which, under existing circumstances, are not only onerous and impracticable but obsolete and useless.

4. Under similar circumstances, such leases have, as your petitioners are informed and believe, at various times been renewed by permanent pattas, which were granted in lieu of such leases, the latter being now virtually obsolete and incapable of renewal on account of the special conditions contained therein, which have ceased to be necessary or desirable.

5. Your petitioners urge upon Your Excellency's Government that the East India Company certainly intended that the aforesaid leases should be renewed after the expiration of each

30 years, and that it is desirable that they should be renewed, and further that the lessees are entitled to seek for the perfecting of their title by such renewal, as at present in many cases the term for renewal has expired, and the lessees are without any sufficient or regular title, and purchasers naturally object to accept such imperfect or uncertain titles.

6. Petitioners also urge that the grant of a permanent patta being a customary and convenient form of renewal, there is no valid reason why persons who hold old leases under the Honorable East India Company, plus the ordinary pattas, should be in a worse position than those persons who hold ordinary pattas only.

7. The other signatories to this petition being persons who similarly hold leases or grants of the late East India Company for lands which form the gardens, sites, or the grounds of houses and who desire that such leases should be renewed or replaced by permanent pattas for reasons above referred to have entered particulars of their leases and the properties held under them in the accompanying schedule.

Your petitioners therefore pray that Your Excellency will be graciously pleased to peruse the said form of lease and other material papers and to direct the renewal of the said lease and other similar leases by the grant of permanent pattas or such other documents as may be deemed desirable from time to time on application of the parties as has hitherto been the practice.

For which act of justice your petitioners will, as in duty bound, ever pray.

N.B.—The names of the other signatories will be found attached to the schedules containing particulars of each lease and property.

READ—the following letter from L. R. BURROWS, Esq., Collector of Nilgiris, to the Secretary to Government, Revenue Department, dated Ootacamund, 18th February 1889, No. 14 :—

With reference to your official memorandum, dated 29th December 1888, No. 202, I have the honor to submit, for the inspection of Government and return, a counterpart of lease for 99 years.

2. I have not a copy of any of the earliest leases issued for building sites, as all the counterparts were filed in the office of the late Registrar of Grants at Madras, and I am, therefore, unable to state the difference in the terms of the original and modified leases which were in force between 1828 and 1859, when the rules as to the grant of building leases were abrogated.

3. The difference in the terms, however, can be gathered from the sketch of the rules given in pages 347 to 355 of the Nilgiri Manual.

READ—letter from Messrs. COWDELL AND WINTERTON, Ootacamund, dated 16th February 1889.

ABSTRACT.—Forwarding the 99 years' lease and patta granted to Mr. Hodges.

READ—letter from Rev. D. DOWNIE, D.D., American Baptist Mission, Nellore, dated 12th April 1889.

ABSTRACT.—Requesting that a favorable consideration may be given to his request of converting the property known as "Holmwood" in Coonoor into a freehold.

READ—letter from Messrs. COWDELL AND WINTERTON, Ootacamund, dated 7th May 1889.

ABSTRACT.—Forwarding a schedule of an additional property from a certain person to be attached to the petition regarding permanent pattas.

READ—the following official memorandum from J. A. GALTON, Esq., Secretary to Government, Revenue Department, to the Deputy Collector of Madras, dated Fort St. George, 20th December 1888, No. 197 :—

The Deputy Collector of Madras is requested to forward *at once*, for the perusal of Government, copies of blank forms of 99 years leases for the grant of land on the Nilgiri hills for agricultural and building purposes. If blank copies are not available,

original documents, which, it is believed, are lodged in the Madras Deputy Collector's office should be sent up for perusal and return.

ORDER—dated 30th August 1889, No. 744, Revenue.

Miscellaneous.

The papers read above relate to the question of granting permanent pattas for lands held under Government on leases for 99 years.

2. On a careful consideration of the question, His Excellency the Governor in Council is of opinion that the tenure on which these lands are held is antiquated and objectionable, and that, on grounds of public policy, it is desirable to commute these leaseholds, which are liable to revert to Government after the expiration of the terms of the leases, into permanent properties. The Government considers that this might be best effected by granting permanent pattas to the holders of the properties according to present occupation, subject to the payment of a fixed quit-rent of Rs. 2 per acre, all reversionary rights possessed by Government in them being relinquished in consideration of the quit-rent thus fixed. In cases in which the rent paid under the leases exceeds Rs. 2 per acre on an average, the amount now paid will continue to be levied, but there will be no additional charge.

3. The Collector of Nilgiris will report through the Board of Revenue, after consultation with Messrs. Cowdell and Winterton or other persons interested, whether a settlement of the question as above indicated will be acceptable to them.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Board of Revenue (Land Revenue).

Exd. A. D. Xavier.

45 Copies.

Govt. of (1889) Madras.

REVENUE

Issued

Recd.

Encl.

G.O., 30th August 1889, No. 744.

AUGUST.

Lands held on leases for 99
years.

Considering it desirable that — should be converted into permanent properties by granting permanent pattas on certain conditions, and directing the Collector of Nilgiris to report if the proposal is acceptable to the persons concerned.