M.R.O. 1—22400—92-11-40

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3131 Revenue Prose / Mis.

Dated 26th May 1891.

Not to be folded or roughly handled

Sectt. II-27—45,004—21-10-27.

1891

Revenue (~~1892~~) Department.

SERIES.

G.O. No. 3131

DATED 26-8-1891

[Despatch Abstract]

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Da

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	D
915	137	Rev.	21.6.92				

NOTE FOR THE ~~UNDER~~ SECRETARY. 3

The terms Taramjasta & Faraljasta are clearly explained in the Board's Resolution read in G.O. No 1429 d. 28-9-81. But it is difficult today what the rate per acre under each head, is in Tamil.

C.P. 2970/91 is a petition from Appasami Pillai, Inamdar of Rajapudukudi village, Attipidaram taluk, appealing against the levy of water-rate on his Inam Nanjah lands. The rates in this taluk vary considerably from Rs 2-00 to Rs 7-8-0 in the case of

wet. cultn from 3 annas to Rs 5 in the case of dry (vide para 5 of the Board's Proc: read in G.O. 376 dy 11.3.78). The average rates are given in para 12 of the order as Rs 4-3-9 (wet) cultn 12 annas 9 pies (dry).

C.P.
20/5.

5

GOVERNMENT OF MADRAS
REVENUE DEPARTMENT

OOTACAMUND.
May 21. 1891.

Ly Tem Recs

With reference to your telephonic message yesterday I send in original letter which perhaps gives the information you require, but without knowing the amount to which you refer I do not

1

21.v.91.

Dear Gallon

Many thanks

I return the papers

Yours truly

J. Rees

1

Have read the last
part. The article
seems a big one and
finishes at page 1 of the
appendix to Vol 2
the RSA standing order
Revised Edition.

Yours truly
Chalton

F C¹ 9

Class	INDIAN TELEGRAPH.	Local No.
To (Station) Telephonic	From (Station) Mercara	

Words.	Day.	Hour.	Minute.	Official Instructions.

To (Person) The Revenue Secy

From (Person) The Private Secy

1 C No 2970 of 1891.
2 What is amount of Basal
3 Jasti and of Trivadi Jasti
4 Trinevelly please? Information
5 necessary to compare with
6 Collector's proposed rate of
7 one rupee.
8
9 E.V. Newton Reading
10 Telephonic
11 2-7-91
12
13
14
15

Rcd. from	L. N.	Sent to	L. N.
At Hrs.	Mts., By	At Hrs	Mts., By

Date

Telegraph Master.

PETITION

418

REVENUE DEPT

To

11

His Excellency

The Governor in council of Fort St. George.

MADRAS.

GOVERNMENT OF MADRAS 15 APR 91 REVENUE DEPARTMENT

The humble appeal petition by A. S. Appasamy Pillai Tinnevelly District Court Pleader and Inamdar of the Village of Rajapudukudy in Ottappidaram Taluk Tinnevelly District.

MOST HUMBLY SHOWETH.

That the petitioner most respectfully begs to submit that the order of the Board of Revenue No. 5058 dated 23rd August 1889 charging water rate for his (petitioner's) Inam Nanjah lands is improper and illegal.

2. This order of the Board was not communicated to this petitioner but he became aware of it by the yadast No. 138 dated 4th March 1891 from the Tahsildar of Ottapidaram making a demand for water cess according to the Sub-Collector's order No. 128 dated 4th February 1891 which was based on this order of the Board of Revenue.

From the Inam Register and Inam Title Deed, it appears very clear, that the extent of 100 and odd acres is Nanjah Inam for which a quit-rent was settled by the Inam commissioner. They do not specify whether these lands are single or double crop, but by the rule of construction of Deeds, it is obvious that both crops are Inam. The petitioner, having purchased the property recently, was unacquainted with these facts and he can not be bound by his petition praying for remission of water cess either for the 2nd crop or for additional Nanjah lands.

3. The accompanying sketch will show that these wet lands were fed by a supply of water through the channel, branching from Uppar Odai in the place marked A which is a jungle stream; not perennial and not mountain fed. The petitioner is the owner of the entire Inam Village.

4. From time immemorial, there used to be a rubble stone temporary anicut in the place marked A and the petitioner requested permission from the Collector to erect a permanent anicut in the place, where the usual temporary rubble stone anicut existed. He (petitioner) moreover solicited the collector *either to contribute a moiety of the expenses of the improvement or remit the water cess, in case the petitioner cultivates additional Nanjah lands with the help of the improved source of water supply at his own cost.*

5. The collector granted the petitioner's prayer for constructing the anicut and with a large outlay of capital, the petitioner erected [illegible] anicut and moved the

Collector again to decide the question of the contribution or remission of water cess. Mr. Thomson, the then Collector, inspected the place and recommended to the Board of Revenue, that it would be gross injustice to levy water cess for the nanjah lands which the petitioner might cultivate with his (Petitioner's) improved source of water supply (vide the letter dated 12th July 1889 No. 669.) He also admits that the Inam Register does not mention that these wet lands are single crop lands.

6. The Board of Revenue did not properly understand the nature of the case, so they were not able to conceive the real points on which their orders were solicited. Their order was so *generally worded that the Sub-Collector imposed water cess upon the petitioner's usual wet lands for which he holds Inam Title Deed, under wet land tenure. There was neither additional cultivation of Nanjah nor cultivation for second crop in the usual wet lands.*

7. No order of the Board was communicated to the petitioner up to the last month, but a demand for Rs. 122—13—8 as water cess was made upon him by the Tahsildar of Ottapedaram in his yadast No. 91 for the entire wet land, which is not in excess of the extent of wet land granted under the Inam Title Deed. The Petitioner, however, paid the sum under protest but he was not able to find the mistake committed by the Board of Revenue till he obtained a copy of their Proceedings on the 3rd March 1891.

8. The following circumstances, the Petitioner begs to submit, deserve your Excellency's benign consideration:—

(*a*) The Uppar Odai is a jungle stream.

(*b*) There is no use for the water of this Odai below the petitioner's tank.

(*c*) The village of the petitioner is a personal Inam Village or Entire Inam Village as distinguished from Minor Inam.

(*d*) Petitioner has spent *a very large sum* in erecting the anicut on the firm *faith that Government would* render fair justice *either by contributing a moiety of the expense incurred or by remiting the water cess.*

(*e*) The Collector failed to give any definite order about water cess, in giving permission to erect the anicut. No undue advantage can now be taken after the anicut is erected at his (Petitioner's) own cost. It was in his option to erect an anicut or not, *if the Collector insisted upon levying water cess for the increased acreage brought under wet cultivation and now he (petitioner), is deprived of this option.*

(*f*) Government should be pleased to encourage such private improvements, and they should not be exacting.

(*g*) The Inam is an entire Inam. The tank, the Channel and the anicut are repaired and maintained by the petitioner at an enormous cost every second or third year. He will be put to great loss if water cess be levied from him.

9. Further, your excellency's Government have, in the Inam Department, repeatedly held the principle that if a river or feeding Channel is not maintained by Government and if there is no anicut across the river constructed or maintained by Government, it is doubtful whether water rate could be charged and levied from Inamdars.

When the Inam lands are irrigated by tanks maintained by the Inamdars themselves the classification made by the Inam Department can in no way affect the right of the Inamdars to irrigate as much lands as they please.

10. Above all these, the act VII of 1865 sections 1 and 4 are clear. It is only when improvements to water works are made at Government cost, water cess may be leived from Zomindars and Inamdars. The recent decision of the Madras High Court reported in page 407 of Madras Law Reports XII vol. is in point.

11. The High Court of Madras remarked as follows "when a special cess is demanded in the professed exercise of a special power conferred by legislative enactment and when that enactment directs *when and how* it is to be collected, the courts of Justice are bound to see that, that power is exercised in accordance with the provisions of the act." In this his decision, they also refer to the preamble of Act VII of 1865, "Large expenditure out of Government Funds has been and is still being incurred in the construction and improvement of irrigation works, it is but proper that there should be a fit to return to Government &c".

In the case under reference, there was no expenditure incurred by Government either now or before: Throughout the whole length of the Odai, there is no irrigation work in existence.

In fine, the points for your excellency's Government's consideration are

(1) Whether water cess can be levied for the lands which are already settled wet land Inam bearing quit-rent.

(2) Whether for 2nd crop, over such old nanjah lands water cess can be levied.

(3) Whether water cess can be levied for any additional land brought under wet cultivate by the improved source of water-supply.

On the first question, there can be no two opinions.

Demanding water cess is clearly *illegal*.

On the second question, the reasons given in paras 2, 5, 8 and 9 are to be looked into. Inam Title Deed does not restrict the land to one crop alone.

On the third question, the reasons assigned in paras 4, 5, 8, 9, 10 & 11 of this petition show that Government incurred no expenditure for the improvement.

To

His Excellency
The Governor in Council
of Fort St. George
MADRAS.

From

A. S. Appasamy Pillai Tinnevelly District Court Pleader and Inamdar of the Village of Rajapudukudy in Ottappidaram Taluk Tinnevelly District.

Enclosures 3

SUBJECT.

An appeal against the Proceedings of the Board of Revenue No. 5058 dated the 23rd August 1889 communicated on 4th March 1891 by Ottappidaram Tahsildar's yadast.

12. The following papers are herewith submitted:—

1. A sketch showing the anicut &c.
2. Copy of the Board's Proceedings appealed against.
3. Tahsildar's yadast No. 138 dated 9th March 1891.

13. Under these circumstances the petitioner most respectfully craves that your excellency may graciously be pleased to consider the injustice of the Board's order and by cancelling it altogether grant redress to the petitioner.

For which act of Justice the Petitioner shall ever pray.

4th April 1891.
Palamcottah

A. S. Appasamy Pillai
Pleader

Pettah dk
16 Mar 91

Rd 18/4
" 18/4
Issued 20/4
Returned

(1891.)

REVENUE DEPARTMENT.

No. 297.

From

A. S. Appaswamy Pillai
Tinnevelly Dt. Court Pleader
& Examiner of the
Village of Rajapudukudy
in Ettayapuram Zy,
Tinnevelly Dt.

ABSTRACT.

Dated 4-4-91
Received 15-4-91
Enclosures 2

No.

SUBJECT.

Appealing against B.T.
N. 605-8 of 23-8-89 charging
water-rate for his Inam tumjah
lands. to

C 11/5

17

REVENUE DEPARTMENT

297/91

From Appa

Mai
April 1891.

FOR

Petr is the owner, by
lease, of an Entire Inam
of which was confirmed
the Inam Comr in 1867 on
nit rent of Rs 93. The
Register shows that the
consists of a wet arable
of acres 100. 87, and that
Tank therein was a rain fed
and kept up entirely at the
dar's cost. The tank, howev
long been supplied by a
nel, leading from a temp
anicut thrown across the
r odai which joins the
r river about 3 miles
the anicut.

In 1889, Petr applied
mission to replace the
stone anicut by a per
ent Structure and also
sted that he might either
empted from water-rate
or-

para 2 of the Collr's
Report (under reply)

para 3, Collr's report

FOR ORDERS.

or that if this could not be done, the Govt might contribute towards the cost of the anicut. Neither the Taluk nor the P. W. authorities who were consulted raised any real objection and the permission asked for was granted but no orders were passed on the other requests. The Petrs therefore repeated them in May 1888, and the matter was put up to the Board for orders with the Collr's recommendation that either no charge at all should be made or that it should be a reduced one of 1 Rupee per acre. The Collr was of opinion that it would be grossly unjust to charge fully for improvements to which Govt had contributed nothing, but the Board thought that the Collr went too far and ordered that the P. lands should be charged full rates. The reason why Board did not charge full rates is that it considered that the Petrs, when constructing the anicut, had good re-

Qn whether second crop charge & charge for melvaram can & should be levied (para 7. of Collr's report.)

para 9. Collr's report.

from

188.

E R.S.

believing that the concession asked for would be granted.

The Board's order is dated 23-8-89 and the Petrs (para 2 of the petition) say he became aware of it after he had received the Collr's letter dated 4-3-91, this statement cannot be true because the words at the foot of the Board's order accompanying the petition show that it was applied for on 16-1-91 and delivered to Petrs on the 3rd March. See also para 7 of the petition.

In this petition, Petrs make the following points - that the Ordai across which the anicut has been thrown is a single stream within the

paras 3 & 8 (a) of the petition

FOR ORDERS.

the meaning of Board's Standing Order No 8.

The Collr's report shows that this is not the case, as the Odai supplies a tank above the anicut and is a feeder of the Chittar river, which falls into the Tambraparni river, an important source of irrigation.

(2) That the Petrs land is double crop and not single crop land as assumed by the Collr & the Board.

The Inam title deed is silent upon the point and Petr contends that the land should be assumed to be double crop in the absence of a statement to the contrary. He appears to have once admitted that the land was single crop but he now withdraws the admission on the ground of ignorance of at the time of making

(3) That the Sub-Collr imposed water-tax on lands, although there has been no second crop cultivation in excess of area allowed by the Inam title deed.

Petr does not seem to have addressed the Collr or the Board upon this point. It may be referred to those authorities for redress in the first instance.

The general question as to the rate to be charged for irrigation where a second crop is raised on land has now to be settled. It is submitted that under the circumstances of the case the Board's order that half rates should be charged was fair, and should be allowed to stand.

Collr's report, para 5.

Paras 2, 5 & 11 of the petition.

* The irrigation source was in 1867 a rain-fed tank, & the land must therefore be assumed to be single crop see para 9 of the Collr's report.

para 6 of the petition.

Recd 24/4

REVENUE DEPARTMENT.

Current No.

FOR ORDERS.

C. No. 2970/51

Petition from A. S. Appasamy Pillai

Jointly & Severally appealing against the imposition of water cess

H. Cr

Now as the Regd Owners have expressed their willingness to pay the cess as per the petition

6/5

Submitted

Cr
6/5

The petitioners are Engineers & Contractors by profession and have been carrying out the construction of the Mettur Canal Project for the Government of Madras. They have also undertaken the construction of the Lower Bhavani Project for the Government of Madras. They have also undertaken the construction of the Lower Bhavani Project for the Government of Madras.

From

18 .

Dated

FOR ORDERS.

Revenue Department.

Current No.

Dated

18 .

FOR ORDERS.

Irrigation. Petition for Fasaljasti & Judicature.

initials J K Tank 18/5/91

Does a question of law arise on the petition for Fasaljasti & Judicature?

Under the circumstances stated in the petition I think the Board should recommend that the petitioners should be allowed to carry out the proposed scheme of irrigation & construct the works necessary for the irrigation under such circumstances as shewing of any encroachment if there be any should be made.

If any petitioner is not satisfied with any order passed in regard to any water rate for irrigation purposes he should apply to the Collector for redress in the first instance.

The Hon'ble Mr Saxton
The Hon'ble Mr Stokes

Concurred

I think the Board's order is fair. The persons were summoned & petitions & heard it; because in Case 1 and 2 may have the grant of permission to appeal again for spurious orders. There were unfortunately delayed during which the main question in the construction of the ancient Tank will be treated with great leniency if he is allowed early rates of transport & final fasli as the Board suggests.

11/1
18 May

c 11/5

F 01

REVENUE DEPARTMENT.

25

18.

No.

From Chief Secretary to Govt. No. 2970/91

Dated Ootacamund 26th May 1891

Read the following letter from the Board of Revenue, No. 3131, dated 18th May 1891.

In this case the Govt. in Council, while holding that the petitioner is liable legally to pay fasaljasti & irrigation cess at the full rates, considers that the circumstances on the part of the local authorities to whom the conditions on which the dough stone tank might be replaced by a permanent structure have led him to believe that, if he proceeds with the work, he would be allowed to meet in some way, by remission or part repayment, the outlay he has incurred, by partial remission of the water-rate, is therefore disposed to direct that such charges shall be made, at the favourable

proposed by the Collr. he[l]ps much, however distinctly understan that, should he, witho the previous consent the Govt. Officials, e either his tank or it supply channel, or the ancient above it present level, furt rates will be impos

2. With regard to his complaint that the Sub. Collr has impose water-rate on his la although there has no second crop culti or cultivation in exce the area allowed by inam title-deed, the will be informed th he should apply to Collr & the Board b moving the Govt to interfere in the ma

Edr
25/5/11

From sides.
A
25/5

To the Comr. of Rev. with 2 letters
" Petr. with 3 encls.

Ack 28/5/11

FOR ORDERS.

Draft G.O. from orders

Secy.

MISCELLANEOUS SERIES.

REVENUE DEPARTMENT.

G.O., DATED 30 June 1887

No. 317

When given for copying

[Despatch Abstract.]

Passing orders on appeal
petition from A.S. Apfasamy
Pillai Dt. Court Pleader
Tirunelly re: charge of
water rate on his inam
Tunjah lands.

MISCELLANEOUS SERIES.

10-10-27
16/6/28 11

REVENUE DEPARTMENT.

G.O., DATED 188

No.

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[Despatch Abstract.]

D/ 17-10-23 B. 11 ✓

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G.O. No. 192 , DATED

No

TO C. No.

GOVERNMENT	A	A	A	A	A	A	A

GOVERNMENT.

WITH DITTO.

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