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MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No. 4427

~~Press~~
Mis.

Dated

11. X. 1892.

Not to be folded or roughly handled

PROCEEDINGS OF THE BOARD OF REVENUE
(LAND REVENUE).

THE HON. MR. H. W. BLISS.
MR. E. GIBSON.

READ—the following letter from Messrs. BINNY AND CO., Madras, to the Chief Secretary to Government, dated Madras, 10th February 1892 :—

With reference to the grant of land at Tatpilli in the Bhadrachalam taluk of the Godavari district, given by Government to the Godavari Coal Company for coal-mining purposes, and the lease for which is now in preparation, we have the honour to inform you that notice has been served to us, as Managing Agents of the above Company, by one Arcot Ramanuja Mudaliar, that the minerals under the village of Tirupurapentavidu are vested in him under the grants he holds, which he states have been recognized by Government. He has been asked to favour us with an inspection of the grant, but it is doubtful if he will accede to this request.

We understand that it has already been ruled that the minerals, lying under the tract of land applied for, are the property of Government, and we have, therefore, the honour to inquire whether there is any foundation for the claim made by the said A. Ramanuja Mudaliar.

We have the honour to inquire further whether there is any means of our obtaining the surface rights, as the occupiers of the land appear to be under the impression that they can prevent us altogether from mining if we do not purchase their lands at exorbitant rates. Surely in the last resort Government will be prepared to put in force the Land Acquisition Act !

READ—the following letter from Messrs. BINNY AND CO., Madras, to the Chief Secretary to Government, dated Madras, 12th February 1892 :—

Godavari Coal Company.

In continuation of our letter of the 10th instant, we have the honour to request that you will be so good as procure for us a copy of the grant of land in the village of Tirupurapentavidu in the Bhadrachalam taluk of the Godavari district, to A. Ramanuja Mudaliar.

We have further to remark that a portion of the land for coal mining applied for by us lies under the bed of the river Godavari, and as we have heard it rumoured that the Nizam's Government lay claim to the whole width of river, we have the honour to request that this matter may be inquired into with a view to a settlement of the question as to whether the boundary between the British and Hyderabad territories is the middle of the river or the left bank.

We are naturally not inclined to incur further heavy expenditure in the meantime.

Endorsement No. 1325, Revenue.

Referred to the Board of Revenue for very early remarks.

FORT ST. GEORGE,
9th March 1892.

(Signed) R. H. CAMPBELL,
Acting Assistant Secretary.

To the Commissioners of Land Revenue.

RESOLUTION—dated 2nd August 1892, No. 395.

In the above order, Government refers, for the Board's remarks, two letters from Messrs. Binny and Co., wherein they raise the following questions in connection with the coal-mining lease to the Godávri Coal Company:—

(1) Whether the right to minerals under the village of Tirupurapentavidu (included in the plot demised to the Company) which is set up by one Arcot Ramanuja Mudaliar under certain grants alleged to have been recognized by Government is well founded;

(2) Whether there is any means of obtaining the surface rights over the lands included in the Company's concession, as the occupiers seem to be bent upon demanding exorbitant rates of compensation, and whether Government would as a last resource apply the Land Acquisition Act for the purpose;

(3) Whether the boundary between the British and Hyderabad territories is the middle of the Godávri river or its left bank in such parts of the demised plot as have the river for their boundary.

Messrs. Binny and Co. also ask for a copy of the grant under which Arcot Ramanuja Mudaliar holds the Tirupurapentavidu village.

2. The answer to the first question is in the negative. Arcot Ramanuja Mudaliar, who is generally called the Tirupurapentavidu muttadar, holds seven villages in the Bhadrachalam taluk. In the correspondence ending with Government Order, Mis. No. 5899, dated 16th November 1891, it has been decided that the muttadar's claims to hold the seven villages on a quit-rent of Rs. 100 under a permanent bilmukta sanad granted by a former proprietor of the Palavanchi estate and under a subsequently executed deed of ratification of the same are invalid and are further barred by limitation. Moreover, even if this were not so, the muttadar has acquiesced in the express reservation of the State's right to minerals provided in the sanads granted at the original settlement of 1867—*vide* paragraph 1 of Government Order, dated 25th June 1890, No. 490.

3. Copies of the grants asked for by Messrs. Binny and Co. are not now available, those produced by Ramanuja Mudaliar having been returned to him through the Collector of Godávri.

4. In regard to the third point, the Board begs to invite attention to Government Order, dated 7th October 1891, No. 5227, Revenue, in which it was held (at any rate in the Revenue Department), on a reference from the Resident in Hyderabad,

that according to the principle enunciated in the Government Orders quoted on the margin, the boundary line between the Nizam's dominions and British territory should, in the parts separated by the

Godávri river, be taken to be the deep stream of the river. The Board is not aware, however, whether any decision applicable to all future cases was come to with the Hyderabad State on that occasion. Pending the settlement of that question, the Board ordered the Government Solicitor to describe the plot demised in the present case as extending "up to the British boundary" in the parts where the river itself formed the boundary—*vide* Board's Proceedings, dated 16th September 1891, No. 563, approved in Government Order, dated 26th September 1891, No. 5099.

5. In regard to the acquisition of surface rights in occupied lands involved in the second question referred to in paragraph 1 above, it will be recollected that Messrs.

Binny and Co. once before raised the same point and were informed in reply that the Land Acquisition Act limited the interference of Government on behalf of Companies

* *Vide* section 48, Act X of 1870.

to cases of acquisition of lands required for works of public utility,* but that the Revenue officers would render them such assistance as was possible without the use of compulsion under the Act—*vide* para. 2 of Government Order, No. 823, of 2nd September 1891. The question of compulsory

acquisition of lands on behalf of mining lessees does not now arise for the first time, but has been under consideration since 1872, as will be seen from the papers quoted in the margin†. After a full consideration of the question, and as the only means of solving it without resort to legislation, Government ultimately decided on recognizing the preferential right of the holders of all occupied lands to obtain mining leases for their lands—*vide* para. 1 of Government Order, dated 5th October 1881, No. 1481. In some of the other Provinces‡ legislation has been resorted to for the purpose of securing to Government the right to compulsorily acquire

the surface rights in occupied lands whose mines and minerals vest in Government, either under the provisions of the Land Acquisition Act or otherwise. The Board considers it desirable that Act X of 1870 should be amended so as to provide generally for the acquisition of surface rights in occupied lands for mining purposes, and will deal with this matter in reporting on the draft bill for the amendment of Act X of 1870 referred by Government for its remarks.

6. In regard to the present case, as the sanads issued at the settlement contain conditions distinctly reserving to Government, on pain of attachment, the right of access to and other reasonable conveniences for working the mines and minerals on behalf of itself or its assignees, and as there is nothing in those clauses rendering the previous payment of compensation a condition precedent to the exercise of that right, here would apparently be nothing to prevent the Mining Company from entering on the lands in the event of non-acceptance of reasonable compensation by the occupants, but for the clause ordered to be inserted in the coal-mining lease with reference to paragraph 7 (d) of the Government of India order in Government Order, No. 64, dated 7th February 1891, which forbids the Mining Company from interfering with the rights of the occupants without previous settlement of terms and payment of compensation. The lines on which compensation was to be awarded were sketched out in paragraph 4 of Mr. Clegg's letter to the Collector of Godávri, recorded in Board's Proceedings, No. 112, dated 25th February 1890, and the services of a special officer would probably have to be placed at the disposal of the Company to settle the terms in cases where the Company itself is unable to do so. But as this mode of settlement may not be possible in all cases without exception in the absence of the legal powers mentioned in paragraph 5 *supra*, the only course open to Government is, the Board considers, to take upon itself the entire responsibility of acquiring the surface rights in occupied lands in view to the protection of the interests of the surface holders. In this case, the necessity for the retention of the condition ordered by the Government of India disappears, and if that condition be replaced by one requiring the deposit of satisfactory security by the Mining Company for meeting the claims of the occupants to compensation (as was originally proposed in paragraphs 4 and 3 (3) of Board's Proceedings, Nos. 4 and 499, of 7th January and 12th August 1890, respectively), Government might, under the powers reserved at the settlement, authorize the Company to enter on occupied lands after tendering reasonable compensation to the persons interested and leaving them to sue for damages in the event of non-acceptance of its offer. The Company must, of course, bear the cost of the special establishment and the expenses incidental to the defence of suits for damages.

* S.O. 25.6
491

* S.O. 25.6
S.O. 12.4
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7. It is, however, a point worthy of consideration that there must be plenty of waste land in these parts at the disposal of Government, upon which, on payment of the assessment, the Company would no doubt establish their engine houses and other surface works without unnecessary disturbance to their neighbours.

8. The Board would take this opportunity of suggesting to Government that the Public Works Department may be consulted as to whether the carrying on of mining operations up to the deep stream of the river would affect any existing interests, as was done in the case referred to in paragraph 2 of Government Order, No. 2195, dated 22nd November 1879.

(True Copies and Extract.)

W. H. Meyer
Acting Secretary
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REVENUE DEPARTMENT

To the Secretary to Government, Revenue Department. ✓