CONFIDENTIAL.

Revenue (1893) Department.

G.O., No. 3276

Confidential No. 609.

DATED 6 September 93

[Despatch Abstract.]

Agreeing with the Board of Revenue in considering that the intervention of the Court of Wards is unnecessary in regard to Nargantipolliem

BACK PAPERS.

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

FURTHER PAPERS.

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

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NOTE FOR THE Secretary

Please see draft inside below the initials of the Hon. members.

No reference is made in the notes to the Boards proposal to authorize the collects to furnish the Municipal relations with Copies of the Govt. Pleader's opinion & other useful papers on the subject.

(At the top of the last page)

V.A.
6 Sept 3.

P.P.O.

BACK PAPERS.

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

FURTHER PAPERS.

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

I don't think the Bd. should refer
on that point - It will do as it
thinks fit in the matter -

L.G. 6/9.

REVENUE BOARD OFFICE MADRAS.

Proceedings of the Board of Revenue

(Land Revenue),

Dated 15 September 1892,

No. 5966.

READ again Board's Proceedings dated 16 July 1891. No: 4972 Revs.

(2) Endt of the Collr of S. Arcot, dated 20 July & 8 August 1891. Nos: 4682 & 4808/8 Aug.

(3) Petition from the mukhr of the late Zamindar of Kanagunti, S. Arcot Dt & 12 August 1891.

(4) Petition from the Senior widow of the late Zamr & 12 Sept 91.

(5) Petition from the junior widow of the late Zamr & 24 Sept 91.

Read (6) Petition from the Junior widow of the late Tyagarajah by Mr. K.K. P. Subramaniam Proctor attorney at Law. dated 23rd Sept 91; and Reference thereon to the Collr of K. Arnt dd 30-9-91.

"The Collector will be requested to report if there are good grounds for considering that the lease could be set aside with success."

(7) Letter from the Collector of K. Arnt dd 19. 2. 92. Refs: 622/Stg.

Resolution:-

The papers read above will be forwarded to the Government Pleaders with the request that he will advise the Board as to the validity of the lease of the Estate of Mr. Ramasamy Raja and the chances of getting it set aside in the event of it being thought desirable to take the Estate under the management of the Court of Wards.

(True copy Robert)
(Signed) W. S. Dwyer
Ag Secretary.

To
The Govt Pleader.
(True Copy)
W. S. Dwyer
Ag Secretary

Issued with
Board's Proc.
5866 Revs
15. 9. 92

1893
REVENUE DEPARTMENT.
Enclosure No. 1
To Current No. 6458

REVENUE BOARD OFFICE
MADRAS.

Proceedings of the Board of Revenue

(Land Revenue),

Dated 14th November 1892,

No. 7400 Revs.

Confidential

READ letter from the Actg Government Pleader
Madras, dated 31st October 1892

—

Resolution:-

The acting Government Pleader's opinion contained in the second paper read above will be communicated to the Collector of North Arcot, who is requested to submit a full & early report on the points indicated ~~indicated~~ in the concluding portion of para 1 of the opinion. As will be seen from

From the remaining portions of the opinion
if "a position of active confidence"
between Mr. Ramasami Raju and the
late Zamindar can be satisfactorily
established there is every probability of
impeaching the agreement with success. The
Collector is requested to report how the
requisite funds for the necessary suit
can be obtained if it should be
decided to take the Estate under the
management of the Court of Wards.

(True Extract)

(Signed) W. S. Sawyer.

Ag Secretary.

To
The Collector & Asst.
Copy Atty Genl & Pleader

(True Copy)

Ag Secretary

Confidential

189 2

Board of Revenue

(Land Revenue),

MADRAS.

~~To~~

From Secy B.R.

Proceedings, dated 14-11-1892

No. 7400 Mis. ~~Routine.~~ ~~Enclosures.~~

~~Subject.~~

1893
REVENUE DEPARTMENT.
Enclosure No. 2
To Current No. 6458

REVENUE BOARD OFFICE MADRAS.

Proceedings of the Board of Revenue

(Land Revenue),

Dated 26th May 1893,

No. 3200 Mis:

READ again Board's Proceedings No 5866 Mis dated 15th September 1892, and No 7400 Mis dated 14th November 1892 also letters from the Collector of North Arcot dated 7th February 1893 and 10th May 1893, Nos Ref on Gl Enq: No 495 and Ref on Board No 892 of 1893 respectively.

Resolution.

The Collector of North Arcot's letter dated the 7th February 1893 and its enclosures will be forwarded to the Acting Government Pleader with reference to his letter of the 31st October last, with the request that he will favor the Board with his further opinion as to whether in the circumstances now brought to notice, there is a prima facie case in favor of the late palayagar's son, so that a suit might, with fair prospects of success, be instituted for the cancelment of the lease to Mr. Ramaswami Raju.

2. The Board observes that the Deputy Collector's enquiry was not as thorough as

as it should have been. He could have easily ascertained what fiduciary relation existed between the lessee and the deceased palayagar, and whether any of the litigation in which the former appeared for or advised the palayagar was actually pending at the time when the lease was executed; also exactly who the creditors were and what repayments have been made in the last 2½ years. A list of the creditors is given in the deed of the 1st December 1890, forwarded by the Collector with his letter of May 10.

3. The Collector is requested to give more detailed information, with more precise dates, on the points indicated in the preceeding para, and to state clearly what the present financial position of the estate is, and what are its revenue capabilities.

4. An early reply is requested.

(True Extract).

(Signed) R. C. C. Carr

Ag Secretary

To

The Acting Government Pleader

Collector of North Arcot.

(True Copy)

Ag Secretary.

True copy of Board's
Proceedings dated 26th May 1893
№ 3200 his

1893
REVENUE DEPARTMENT.
Enclosure No. 3
To Current No. 6458

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REVENUE BOARD OFFICE
MADRAS.

Proceedings of the Board of Revenue,

(Land Revenue),

Dated 14th July — 1893.

No. 4098 Mis.
~~Routine.~~

READ Letter from the Government Select, Madras, dated July 1893, No: 488.

Resolution:-

The paper read above will be communicated to the Collector of North Arcot who is requested to expedite the further report called for from him in Board's Proc: 26th May 1893, No 3200.

(True Extract)

(Signed) W. S. Meyer.
Ag Secretary

To The Coll: of N. Arcot.

(True Copy)

W. S. Meyer
Ag Secretary.

Confidential

1893.

Board of Revenue

(Land Revenue),

MADRAS.

To

The Collector of Madura

Same Copy of Board's Proceedings, dated 14—8— 1893, No. 4098 Mis. / ~~Routine~~.

Subject.

1893
REVENUE DEPARTMENT.
Enclosure I to ... 4 ...
To G. Dept. No. 1458

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REVENUE BOARD OFFICE * MADRAS *

Proceedings of the Board of Revenue

(Land Revenue),

Dated 12th August 1893,

No. 4669 Mis.

READ Letters from the Collr of M. Ancot, dated 7th & 8th August 1893 Reforg Govt Mis. 4686 & 4697.

Resolution :—

The two letters read above will be forwarded to the Acting Government Pleader with reference to his letter of the 20th July 93 No 4088.

2. The Board enquires that the Government Pleader will be so good as to ascertain, if possible from the record of the High Court, what action was taken by Mr. Ramaseshia Ayyar on

on behalf of the late Polygar in the two Suits referred to in the 2nd paper read above and to advise the Board whether the facts elicited are likely to establish the relation of active confidence between the parties in question, so as to render a Suit for the Cancelment of the Lease referred to successful -

3. It has been suggested to the Board that, under Sec: 7 of the Limitation Act, the minor might sue to set aside the Lease at anytime up to the attainment of his majority and for 3 years beyond it. The Board would be glad of the Advocate General's opinion on this point also

The

4. The favor of an early reply is requested.

(True Extract)
(Signed) W.S. Lawyer
Ag Secretary.

To

The Ag Govt Pleader.

(True Copy)
for Secy
Ag Secretary

1893.

Board of Revenue

(Land Revenue),

MADRAS.

To

Copies sent to BR

Proceedings, dated 12 8 1893

No. 4669 ~~Routine~~. Mis. Enclosures.

Subject.

1893
REVENUE DEPARTMENT.
Enclosure No. 5
To Current No. 6458

Confidential

Urgent

REVENUE BOARD OFFICE * MADRAS *

Proceedings of the Board of Revenue

(Land Revenue),

Dated 28 August 1893

No. 4946.

READ again Board's Proceedings ℌ 15.9.92 No: 5866 Mis

" " " ℌ 16.11.92 No 7400 Mis

" " " ℌ 26.5.93 No 3200 Mis

" " " ℌ 14.7.93 No: 4098

" " " ℌ 12.8.93. No: 4669.

Read also letter from the Government Pleader, Cuddapah

dated 18 August 1893 No: 617.

Resolution:-

The papers read above are submitted to Government with reference to G.O. dated 1st August 1891 Mis No: 4277 Rev:-

2. The Zamindar of Varagani died on the 4th July 1891, leaving behind him,

w'

a mother, two widows, a son by his second wife then aged about four years, and a daughter by his first wife then about three months old.

3. The estate consists of 61 villages (53 Ayan + 11 Inam) yielding an annual income of about Rs 22,000. The peishkush, land cess, and other Government dues amount to Rs 10,643 a year. The estate also owns a bungalow at Vellore let out to a monthly rent of Rs 80/ and the reversionary interest in a house at Chittoor.

4. The estate was under the management of the Court of Wards for 15 years during the late Zemindar's minority, and was handed over to him in Fasli 1290 with a cash balance of over Rs 10,000. The Zemindar spent this amount, contracted heavy debts, and finally leased (with possession) the whole estate, excepting the houses at Vellore and Chittoor, for even a lakh of rupees to Messrs. Ramaswami Raju, Bros. & Co., for

for a period of 32 years, one month, and 16 days, following from 1st December 1890. Among other conditions, the lease requires that the lessee shall discharge or otherwise satisfy within that period the whole of the Zemindar's debts, amounting to Rs 100,192-12-8, and shall pay the Zemindar or his heirs a monthly allowance of Rs 200, besides a monthly allowance of Rs 102 to some of the Zemindar's relatives.

5. So long as this lease is in force, if the estate is taken charge of by the Court of Wards, its duties will merely consist in receiving the monthly allowance of Rs 200 from the lessee and the rent of the bungalow at Vellore, and distributing them among the late Zemindar's two widows, his minor son and daughter, and his mother. For these reasons the Collector considered that the Court's interference was

was unnecessary.

6. The minor's mother, however, urged that the lease was invalid on the following, among other, grounds, —

(1) That at the time of its execution the lessee was the legal adviser of the lessor, and thus stood in a peculiar confidential relation to him; that the late Zemindar had at that time no independant legal advice; and that the document was executed under circumstances, which would render the transaction void;

(2) That several of the late Zemindar's debts having been contracted for improper and immoral purposes, the minor Zemindar's liability to pay them is open to question;

(3) That the terms of the lease are unduly favorable to the lessee, in as much as it contains no stipulation as to the time when the debts are to be discharged, as to the redelivery of the property freed of encumbrances on the expiry of the lease, and as to terminating the lease if the debts are not paid off by the lessee within a reasonable time.

7. The Collector was requested to enquire into these allegations and report if there were good grounds for thinking that the lease could be set aside by Civil Court suit. He replied that there was no evidence to show that the transaction was not bona fide, and that none of the arguments urged against the lease was sufficient to set it aside, though some of them were strong enough to entitle the lessor or his representatives to sue for damages.

8. The question was then referred to the Government Leader for opinion, as the expediency of taking up the management

a mother, two widows & [illegible]

management of the estate under the Court of Wards depended on the chances of obtaining possession of the property by setting the lease [illegible] aside -

9. From the Government Pleaders letter disposed of in the 2nd of the Proceedings read above, it will be seen that he was of opinion that if a position of active confidence could be established between the parties at the time of the transaction, the lease could be successfully impeached -

10. In his letter dated 7th February 1893 read in Board's Proceedings 24th May 1893 No 3200. the Collector reported that on enquiry he was not able to elicit anything more than that Mr. Ramalami Raju had acted as Counsel for the minor zemindar in certain cases; and the Government Pleader to whom this letter was also referred for opinion, considered that

that the facts there stated threw no additional light on the matter, and that he was unable to find in them such satisfactory evidence that Mr. Ramasami Raju was at any time the zemindar's confidential adviser, as would bring the case in question within the principle of S. 111 of the Indian Evidence Act; and that he could not therefore say that there was a "prima facie" case in favor of the late Polepan's son, so that a suit might with fair prospect of success be instituted for the cancellment of the lease - Vide his letter read in Board's Proc^gs. 14th July 1893 No 4098.

11. The Collector, who had been asked to give more detailed information (with dates) as to whether Mr. Ramasami Raju had appeared for or advised the late zemindar himself in any case, has quoted two cases, in which that Gentleman was said to have been engaged for

for the Zamindars; but the Government Pleader states, that of these two Cases one is not Connected with this Estate, and that the number of the suit quoted in the other is incorrect. The Case therefore stands practically in the same position that it was before.

12. It must be remembered that the property now in the hands of the Estate will not be sufficient to meet the Costs of a suit for setting aside the lease, even if it were thought advisable to file one on behalf of the minor, and it will not be possible to raise a loan on the leased property while the lease remains in force. Further if the lessees title were contested he would probably stop payment of the monthly allowance to the minor Zamindar. etc for taking charge of the estate without getting possession of the leased property, the Board fears that the Salary allowance paid by the lessee would be hardly sufficient to meet the expenses of management. The minor's mother has already quarrelled with the other ladies of the family and the latter have asked for monthly allowance of Rs 70, 495 respectively for their maintenance. Heavy expenses will again have to be incurred in the future for the maintenance and education of the minor when he grows up, and for the marriage of his sisters.

13. In these circumstances the Board considers that the intervention of the Court of Wards is unnecessary, and is not prepared to advise Government to advance money for litigating on behalf of the minor.

The

The Board is however, of opinion that the Collector might be authorized to furnish the minors relations with the opinions of the Government Reader and any other papers on the subject that may be useful to them, and to leave them to take action or not at their own risk and discretion. The case is no doubt a most peculiar and disadvantageous one, but it is very improbable that the Court of Wards Could do anything to remedy this evil as the limitation period for filing a suit against the lease will expire by the 15th September next, the Board request to be favored with the orders of Government by telegram.

(True Extract)

for
Secretary

To
The Secy to Govt. Rev'd.
with Collrs letter & other papers in orig. & Memo
with Comrs B. of Rev's Proc. read above.

is a suit worth him -
It seems that we do further
submitted that there is no
necessity for Government to
take up the case against the
lessee - Lt 4/9.

Lapse
4/9/93
Secy
Govt
5 Sep.

G.O. Mins: No 3276 dt 6-9-93
The Govt. agrees with the Board of Revenue in considering that the intervention of the Court of Wards is unnecessary.

2. The following telegram will be despatched to the Board.

"Bds Prs: 28th ultimo 4946. Govt. agrees with Board in considering Court of Wards intervention regarding Nanagantipollein unnecessary."

Lt 6/9.

Issued.

To the Comrs of L.R.
L.R. 6/9/93

with 20 encls. rtd
D'pd 6/9/93

ordinary
D'pd 6/9/93

Confidential B

1893. No. 43

Board of Revenue

(Land Revenue),

MADRAS.

Copy sent

To

Current Number 6468

The Secretary to Govt.

R.D.

The Hon. Mr Garstin C.S.I.

The Hon. Sir H.G. Stokes K.C.S.I.

GOVERNMENT OF MADRAS
29 AUG 93
MISCELLANEOUS DEPARTMENT

Proceedings, dated 189 3

No. 4966 Revenue Enclosures. 25

Subject.

Recommending Govt. that the intervention of the Collr. is necessary regard to taking up the Kudiwaram dispute Pollicum, Ry Asst Collr & regulating Govt orders of Govt in the matter.

For orders

As to whether the Board's opinion should be accepted. There seems to be very little legal ground for contesting the lease, although some of the provisions appear to be very unfair, particularly the stipulation that no accounts are to be rendered by the lessee to the lessor. On the other hand the position of active confidence which is necessary to prove undue influence on the part of the lessor is not proved. The Board also points out that the estate has no funds independently of the lands leased, to enable the carrying on of a suit.

The Board requests instructions by wire before the 15th instant on which date any suit to set aside the lease will become time-barred.

The Board's opinion is based upon the advice of the Govt Pleader - Mr Subramania Ayar. The bargain made with the late Pollicum by Mr Kindersley pays a rent above suspicion and is advantageous to the Collr. but he is in possession & there are little prospects of anyone

2-4-93

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