Revenue Department

G.O No 1265 Dt/16.9.1858

Book no 21—22

Diary 21.9.1858

No. 21. Read the following Extract from the Proceedings of the Board of Revenue, dated 31st August 1858, No. 3316.

Read again letter from the Collector of Cuddapah, dated

In Con. 28*th June* 1858. 19th July 1856.

In Con. 31*st August* 1858. Read letter from the same Officer, dated 31st July 1858.

Resolved that the above letters be submitted to Government, with reference to their Endorsement, dated 31st May 1856, on Petition No. 943 of 1856.

2. The facts of the case appear to be that the Dasaye Enams of 14 villages including that of Coilcoontlah, of the aggregate value of Cantaroy Pagodas 426 and odd, and paying a Jody of C. Pagodas 81, stood in the Enamaty accounts of Fusly 1220, in the name of Garoodiah; then from Fusly 1221 to Fusly 1246, in that of his eldest son Subbah Row; and since Fusly 1247, in that of his second son Eswariah, and the full amount of Jody was collected from them.

3. A portion of the enams however, in two of these villages, of the value of C. Pagodas 27 and odd, has been long in the possession of the Petitioner Timmaraz, and before him in that of his father Vencatrayadoo who was first cousin of the above-mentioned Garoodiah, they being brothers sons; no portion of the Jody was collected from Timmaraz or his father by the Government Officers, nor is there any evidence to shew that they ever paid rent to their relatives in whose name the entire enam stands in the accounts, although Eswariah asserts that they have held the land since 1823, at a yearly rent of Rupees 50.

4. In 1813, Vencatrayadoo claimed a share of the whole enam, but the then Collector declined to interfere.

5. In Fusly 1264, disputes having arisen between the Petitioner and Eswariah, the latter opposed the cultivation by the former, of the land so long in his and his father's enjoyment, and on 25th February Fusly 1265 A. D. 1856, the Collector issued an order maintaining Timmaraz in his former possession, but directing him to pay to Eswariah on account of the land, a proportionate share of the Jody, namely Cantaroy Pagodas 5 and odd.

6. From this decision, both parties have appealed. Timmaraz in his petition to Government now under report, claims a quarter share of the Enam, and that a separate puttah may be issued in his name, for the share of the Jody payable by him, and seeks permission to sue out his claim in the Civil Courts. He has also appealed to the Board from a decision of the Collector, declining to recognize these claims.

7. Eswariah on the other hand has appealed to the Board from the decision of the Collector, maintaining Timmaraz in possession of the extent hitherto enjoyed by him, and declares the matter to be one cognizable by the Civil Courts, and not by the Collector.

8. The Collector states, that he sees no objection to permission being given for the institution of a Civil Suit to decide the question, and expresses his opinion that the Enam in question is an hereditary one.

9. He refers to a letter of his dated 29th June last, in which he reported that the succession from father to son, which had existed among the Dasaye Enamdars prior to the cession of the country, has in Cuddapah been continued up to the present day, and that in the Pymaish, Tarwary, and Enamaty accounts, the lands attached to them are all entered as Enam, while at the time of the Pymaish, he is informed that other Dasaye and Dasa-pandia lands were included in the Government lands, and he therefore concludes, that all that were not so included, were intended to be continued as Enam; but the Board observe that the Honorable Court in para. 24, of their letter of 12th February 1851, No. 2, express their opinion in regard to Nadgowd Enams, which they consider analogous with Dasaye, that they have all legally reverted to the State, with the discontinuance of the duties of the office, and that the continuance of any portion of them to the descendants of former possessors, can merely be regarded as an act of indulgence.

See E. M. C. 9th Aug. in Con. 15th Sept. 1851.

10. It is, however, perhaps not necessary to discuss this point on the present occasion, where no question of lapse has to be decided, and the Board so far concur with the Collector that they

see no objection to leave being given to both parties to try their respective claims by Civil action; such permission not to be construed as in any way barring future action on the part of Government in regard to these Enams, or as affecting any possible claims of the State.

11. The Board regret the delay that has occurred, in submitting the reports on this case, required by Government.

12. The Collector's first letter was received on 24th July 1856, but the information furnished by it was of so meagre a description, that the Board were unable to form from it any opinion on the merits of the case, and a draft was accordingly prepared calling for further information. This however was accidentally mislaid, and the subject dropped out of mind till June last, when it was again brought under consideration in consequence of further Petitions to the Board and the enquiry completed.

(A true Extract.)

(Signed) J. HUDLESTON, *Sub-Secretary.*

No. 22. ORDER THEREON, No. 1265; dated 16th September 1858.

1. Ordered that the following Endorsement be made on Petitions, Nos. 943 of 1856 and 832 and 3793 of 1857.

"The Governor in Council permits *Timmaráz* to sue *Iswaraya* for the share of Desaí "Inám which he considers to be wrongfully withheld from him by that individual, on the un- "derstanding that the rights of the State are to be in no wise affected, by any decision that may be come to."

2. As in all probability the whole of these Desai Ináms, will (under the orders of the Honorable Court of Directors) revert to Government on the death of the present holder, the Government think that the Collector should select such cases for early report, in preference to the lapses of ordinary Ináms.

(Signed) T. PYCROFT,
Chief Secretary.

No. 3316.

Extract from the Proceedings of the Board of Revenue, dated 31st August 1858.

In Con. 28th June 1858. Read again letter from the Collector of Cuddapah, dated 19th July 1856.

In Con. 31st August 1858. Read letter from the same Officer, dated 31st July 1858.

Resolved that the above letters be submitted to Government, with reference to their Endorsement, dated 31st May 1856, on Petition No. 943 of 1856.

2. The facts of the case appear to be that the Dasaye Enams of 14 villages including that of Coilcoontlah, of the aggregate value of Cantaroy Pagodas 426, and odd, and paying a Jody of C. Pagodas 81, stood in the Enamaty accounts of Fusly 1220, in the name of Garoodiah; then from Fusly 1221 to Fusly 1246, in that of his eldest son Subbah Row; and since Fusly 1247, in that of his second son Eswariah, and the full amount of Jody was collected from them.

3. A portion of the Enams however in two of these villages, of the value of C. Pagodas 27 and odd, has been long in the possession of the Petitioner Timmaraz, and before him in that of his father Vencatrayadoo who was first cousin of the above-mentioned Garoodiah, they being brothers' sons; no portion of the Jody was collected from Timmaraz or his father by the Government Officers, nor is there any evidence to shew that they ever paid rent to their relatives in whose name the entire Enam stands in the accounts, although Eswariah asserts that they have held the land since 1823, at a yearly rent of Rupees 50.

4. In 1813, Vencatrayadoo claimed a share of the whole Enam, but the then Collector declined to interfere.

5. In Fusly 1264, disputes having arisen between the Petitioner and Eswariah, the latter opposed the cultivation by the former of the land so long in his and his father's enjoyment, and on 25th February Fusly 1265 A. D. 1856, the Collector issued an order maintaining Timmaraz in his former possession but directing him to pay to Eswariah on account of the land, a proportionate share of the Jody, namely Cantaroy Pagodas 5, and odd.

6. From this decision both parties have appealed. Timmaraz in his petition to Government now under report claims a quarter share of the Enam, and that a separate puttah may be issued in his name for the share of the Jody payable by him, and seeks permission to sue out his claim in the Civil Courts. He has also appealed to the Board from a decision of the Collector declining to recognise these claims.

7. Eswariah on the other hand has appealed to the Board from the decision of the Collector maintaining Timmaraz in possession of the extent hitherto enjoyed by him, and declares the matter to be one cognizable by the Civil Courts and not by the Collector.

8. The Collector states that he sees no objection to permission being given for the institution of a Civil Suit to decide the question, and expresses his opinion that the Enam in question is an hereditary one.

9. He refers to a letter of his dated 29th June last, in which he reported that the succession from father to son which had existed among the Dasaye Enamdars prior to the cession of the country, has in Cuddapah been continued up to the present day, and that in the Pymaish, Tarwary, and Enamaty accounts the lands attached to them are all entered as Enam, while at the time of the Pymaish, he is informed that other Dasaye and Dasa-pandia lands were included in the Government lands, and he therefore concludes that all that were not so included were intended to be continued as Enam; but the Board observe that the Honorable Court in para 24, of their letter of 12th February 1851, No. 2, express their opinion in regard to Nadgowd Enams which they consider analogous with Dasaye, that they have all legally reverted to the State with the discontinuance of the duties of the office, and that the continuance of any portion of them to the descendants of former possessors can merely be regarded as an act of indulgence.

See E. M. C. 9th Aug. in Con. 15th Sept. 1851.

10. It is, however, perhaps not necessary to discuss this point on the present occasion where no question of lapse has to be decided, and the Board so far concur with the Collector that they see no objection to leave being given to both parties to try their respective claims by Civil action; such permission not to be construed as in any way barring future action on the part of Government in regard to these Enams, or as affecting any possible claims of the State.

11. The Board regret the delay that has occurred in submitting the reports on this case required by Government.

12. The Collector's first letter was received on 24th July 1856, but the information furnished by it was of so meagre a description, that the Board were unable to form from it any opinion on the merits of the case, and a draft was accordingly prepared calling for further information. This however was accidentally mislaid, and the subject dropped out of mind, till June last, when it was again brought under consideration in consequence of further Petitions to the Board and the enquiry completed.

(A true Extract.)

J. Hudleston

Sub Secretary.

To

T. PYCROFT, Esq., *Chief Secretary to Government.*

Copy to Sub Collector in charge of Cuddapah.

Tellicherry 15 August 1857 No 8

Revenue 1858 Dept
Dy to Coll 2nd Sept

No 1396

Extract from the Proceedings of the Board of Revenue.

Dated 31st ——— Augt 1858
Recd 2nd Sept ———

18 Encls
5 maps

No 3316

Submitting with Bds Rema letters from the Collector of Cuddapah on the subject Petn of Gj43 of 1856; and stating their opinion that there is no objection to the parties concerned in the matter of the above Petition being permitted to try their respective claims by Civil actn

No 21 & 22.

Sent to Govt for order
No 1265 16th September 1858

Recd 8th Sept 1858

No 1265

1. Ordered that the following endorsement be made on Petns 943 of 1856, and 832 and 3793 of 1857;

" The Governor in C. permits Timmaraj Dn
" sue Iswaraya for the share of Desai Shan
" which he considers he wrongfully with-
" held from him by that individual,
" on the understanding that the rights
" of the State are & be in no wise affected
" by any decision that may be come
~~to in the following endorsement with reference~~
~~to Petns~~

2. As in all probability the whole of the Desai Shares will revert to Govt on the death of the present holder, the Govt think that the Collr should select such cases for early report in preference to the lapsed ordinary Shares

(on the order to the Hon C. D.)

Govt Sec Geo
No 1249 16 Septr 1858

Endorsed to the Bd of Revenue with the Proceedings