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No. 5. Read the following Extract from the Proceedings of the Board of Revenue; dated 19th January 1858, No. 265.

Read letter from the Acting Collector of Madura, dated 24th November 1857.*

**In Consultation 19th January 1858.*

(Here enter No. 263.)

1. From this letter it appears that the parcel of land now in dispute, was pledged along with two others by the late Curnum for Rupees 60 to the Petitioner, who in satisfaction of his debt was to enjoy the usufruct for 6 years.

2. Before the expiration of that term, the mortgager died and the son of the Fysul Curnum (who had been dismissed 23 years previously) was appointed, and recovered 2 of the Stalams, but was unable to induce Petitioner to give up No. 59. The Acting Collector however decided under Regulation VI of 1831 that it should be relinquished by Petitioner on the ground, the Board presume, that the term of enjoyment had expired and should therefore cease, and Puttah was made out in the name of the present Curnum whose claim to the land was preferred on account of the long possession of his two predecessors.

3. It should be observed in the first place that, the land being "Ayn" and not Curnum Manium, the dispute was not adjudicable under Regulation VI of 1831, but should have been decided by the Acting Collector under his general powers.

4. Had the present Curnum to whom Puttah has been given, been the person who mortgaged the land, his claim would in the Board's opinion have been preferable to the Petitioners; but as the report recorded at the head of these Proceedings, shews that this is not the case, and it is clear that, upon the simple plea of having succeeded to the office of Curnum, he cannot claim as of right, a piece of land discovered to be not Curnum Enam but "Ayn," the Board consider that the Puttah should be made out in the name of the Petitioner.

Ordered that copy of these Proceedings be furnished to the Acting Collector, for his information and guidance, and also to Government, with reference to Extract Minutes Consultation 10th August 1857, Para. 5, No. 799, R. D., and Endorsement dated 12th October 1857 upon Petition No. 2156 of 1857.

(A true Extract.)

(Signed) J. D. SIM, *Acting Secretary.*

No. 6. ORDER THEREON, No. 178; dated 10th February 1858.

1. In these proceedings, the Board of Revenue report on the claim of Nundana Naik of Jumbulapooram in Madura, to one of four spots of land held rent-free for a long course of years by parties filling the office of Curnum of the above village, on the ground that they formed a part of the Curnum manium.

2. The four spots in question, though entered in the accounts of Fusly 1215 (A. D. 1805-6) as "Ayn," or rent paying land, were enjoyed until 1826 by one Sunganarayana pillay, the Fysul Curnum, as a part of the manium of his office. In that year he was dismissed, and in the following year one Nanasevayen pillay was appointed to the office, and he held the four spots of land for a period of nineteen years. In 1845 the last named Curnum mortgaged three of the four spots to the Petitioner for a period of six years, but in 1849, or before the expiration of the term, the Curnumship became vacant, not by the decease of the incumbent as intimated by the Board, but by his removal in consequence of the derangement of his mind. The son of the first or Fysul Curnum, Sungamarayana pillay, was then appointed; he recovered two of the three spots mortgaged to the Petitioner, but failing to obtain the third, or No. 59, a dispute regarding it was brought to the notice of the Acting Collector, who decided under Regulation VI. of 1831 that the spot should be relinquished by the Petitioner.

3. On examination of the Oolungoo accounts of Fusly 1215 (A. D. 1805-6,) the four spots were found to be registered as "Ayn," or rent paying lands; they were therefore assessed to the revenue, and a puttah issued in the name of the present Curnum, on the ground of his having a preferable claim on account of the long possession held by his two predecessors.

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர்: [illegible]

செப்பனிடுவதற்காக எடுத்தல் - 07/08
கொடுக்கப்பட்ட நாள் : 07/08/08

சரிபார்த்தும் முதல் முறையாக ஒப்பம்

சரிபார்த்தும் 2ம் முறையாக ஒப்பம்

இரண்டாம் முறை ஒப்பம்

4. The Board object to the Acting Collector's decision. They observe that the land, being "Ayn" and not Curnum manium, a claim to it was not adjudicable under Regulation VI. of 1831, but should have been decided by the Acting Collector under his general powers; and they express the opinion that, of the two parties claiming the disputed spot, the claim of the present Curnum which rests on the mere ground of his having succeeded to the office, is not tenable and that the puttah for the land should be made out in the name of the Petitioner.

5. In this view the Government entirely concur, and assuming that the disputed spot No. 59 is still in the possession of the Petitioner Nundama Naik, they direct that a puttah be accordingly made out in his name.

6. There are however two points of grave importance in the proceedings under review which call for notice. First, the length of time the fraud has continued undiscovered; and secondly, the course taken by the Acting Collector for the disposal of the land after such discovery.

7. There is no precise information as to the period when the fraud commenced, or when it was discovered. The statement that the four spots were enjoyed until 1826 by the first or Fysul Curnum, would imply that they were so held from the date of the Oolungoo accounts of Fusly 1215 (A. D. 1805-6), or for 21 years; they were afterwards held rent free 19 years by the second Curnum; and for some years by the third incumbent the son of the first Curnum. Looking to these circumstances and to the fact that the matter was brought to light on the complaint of the Petitioner in Fasly 1260, it might be safely assumed that the fraud existed for at least 45 years.

8. What has been the loss of revenue from this appropriation cannot be discovered, as the assessment of the land is not given, but the existence of the fraud for so long a period is not creditable, and leads to the suspicion, that large frauds on the revenue may yet be found to prevail. The one instance under notice is however sufficient to support the opinion recorded by Government in para. 12 of Extract Minutes Consultation 10th January 1857, No. 66, "that a "very large proportion of what are termed service enams were fraudulently created and held "without valid title," and proves the necessity, represented to the Honorable Court of Directors in a letter dated 6th February 1857, No. 3, of having a Commissioner appointed for the investigation and adjudication of enam titles.

9. As to the second point, the Acting Collector was not right in adjudicating on the matter under the provisions of Regulation VI. of 1831. That Regulation referred to emoluments annexed to village offices, and as the disputed land was not of this class, the Regulation did not apply. The Government do not think with the Board that the matter might have been decided by the Acting Collector under his general powers; they are of opinion that the Acting Collector could not interfere in it in any way, and that the land mortgaged could be regained, on the mortgagee declining to relinquish it, only by a civil action. The Acting Collector however did actually interfere, and what is more remarkable, disposed of the disputed land in favor of the present Curnum, though he knew that the individual had no claim of right on his own account, and that he was open to the suspicion of having been in some measure a participator in the fraud.

10. One other question remains to be considered, and that is the disposal of the present Curnum. From the nature of his office the Curnum could not but have been aware that the four spots of land did not form a part of his official emoluments, and it was his duty to have brought the circumstance at once to the notice of the authorities. He might plead ignorance, but this ignorance would at once render him unfit for his office, and it will be for the Collector to consider whether, under either view, such a person should be allowed to continue in the service of Government. The Board will require the Collector of Madura to report on the proper mode of dealing with this individual.

11. The Petitioner Nundama Naik, in his address of the 28th July 1857, claims, in addition to the issue of a puttah in his name, the usual reward for the discovery of the fraud as an encouragement to his future exertions in the same direction. To this point the Board will require the Collector to give his attention and report whether the Petitioner is entitled to any such indulgence.

(Signed) H. FORBES,
Acting Secretary to Government.



