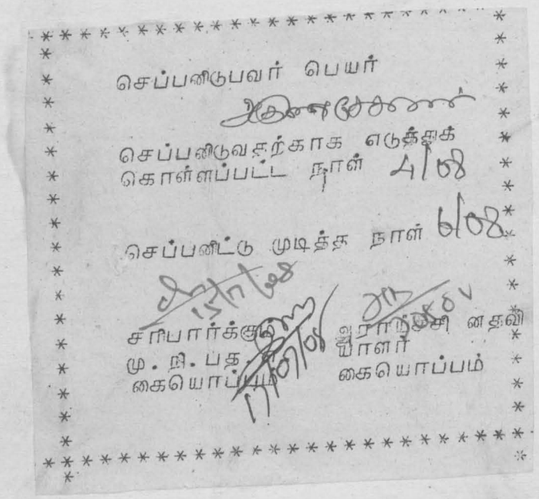
Revenue Department.

Minutes of Consultation

12th March 1858.

Back Nos 19 & 20.

Order No. 289 dt. 4th March 1858


செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள் 4/08

செப்பனிட்டு முடித்த நாள் 6/08

சரிபார்க்குமு. தி. பத கையொப்பம்

தொகுதி னதவி யாளர் கையொப்பம்

Fort Saint George, Revenue Consultation of 12th March 1858.

No. 19. Read the following letter from J. D. SIM, Esq., Sub-Secretary to the Board of Revenue; to H. FORBES, Esq., Acting Secretary to Government, Revenue Department, dated Fort St. George; 15th February 1858, No. 627.

SIR,

In Consultation 12th October. 1857.
In Consultation 15th February 1858, *A.* 4032.

With reference to Extract Minutes Consultation dated 26th September 1857, No. 990, R. D. calling for a report on the Petition of P. Narasinga Pillay and P. Vejayarunga Pillay, I am directed by the Board of Revenue to forward the accompanying letter, dated 12th October 1857, No. 299 from the Collector of Chingleput.

2. It will be seen that the Petitioners' claim to the Punchangum Meerassy, of which they were deprived after 28 years possession, rests on a conditional deed of mortgage executed prior to the enactment of Regulation VI. of 1831.

3. The Petitioners' opponents admit the execution of the mortgage bond, and assert their right to the Meerassy, simply on the ground of their having hitherto performed the duties of the office as the recognized Meerasidars, and not as agents to the Petitioners, who being Sudras are incapacitated for it.

4. Clause 1. Section IV. Regulation VI. of 1831 provides that "all claims which have "arisen and have not been determined by the ordinary Courts of Judicature to the possession of "or succession to heriditary village or other offices in the *Revenue* or *Police* Departments or "to the enjoyment of any of the emoluments annexed to such offices shall, in the first instance, "be adjudicable by the Collector of the district in which the claim has arisen." Viewing this Regulation as applicable to the case in question, the Collector under Sect. II, which declares all emoluments derived from lands attached to such offices to be inalienable, placed the original Meerasidars in possession of the office, and the emoluments annexed to it.

5. The Board would not hesitate to recognize Petitioners' claim if it were not for the circumstance that they as Sudras cannot perform the service attached to the Emoluments. It seems immaterial to consider whether their claim can be disposed of under Regulation VI. of 1831, as argued by the Collector or should be decided under the general rules, for under any circumstances it appears to the Board inexpedient to recognize the transfer of a service Enam to persons who are disqualified for the performance of its duties and must always have recourse to the intervention of others for the performance of the services of which they appropriate the remuneration.

No. 20. ORDER THEREON, No. 289; dated 4th March 1858.

The Board submit above the Collector's report on the Petition of Narasinga Pillay and Vejayarunga Pillay protesting against his order depriving them of possession of the Punchangum (Astrologer) Meerassi Manium in certain villages, which, together with other Sunnud Maniums, was mortgaged to them in 1829, and remained in their undisturbed possession for 28 years.

The Government referred the Petition for Report on 26th September last.

They agree in opinion with the Collector that the case was one adjudicable by him under Section IV. Regulation VI. of 1831, and that the claim was not barred by the fact of the mortgage having been executed prior to the enacting of that Regulation, but it was consequently incumbent on him to make the enquiry, and pass his decision in proper judicial form, which from the papers before Government, he no where appears to have done, and which the Government accordingly resolve to direct him to proceed to do.

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

No. 627.

From

J. D. SIM, Esq.,

Sub Secretary to the Board of Revenue.

To

H. FORBES, Esq.,

Acting Secretary to Government.

Revenue Department.

Sir,

With reference to Extract Minutes Consultation dated 26th September 1857, No, 990, R. D. calling for a report on the Petition of P. Nara Singa Pillay and P. Vejayarunga Pillay, I am directed by the Board of Revenue to forward the accompanying letter, dated 12th October 1857, No. 299 from the Collector of Chingleput.

In Con. 12th Oct. 1857.
In Con. 15th Feb. 1858.
A. 4032.

2. It will be seen that the Petitioners' claim to the Punchangum Meerassy, of which they were deprived after 28 years possession, rests on a conditional deed of mortgage executed prior to the enactment of Regulation VI. of 1831.

3. The Petitioners' opponents admit the execution of the mortgage bond, and assert their right to the Meerassy, simply on the ground of their having hitherto performed the duties of the office as the recognized Meerasidars, and not as agents to the Petitioners, who being Sudras are incapacitated for it.

4. Clause 1. Section IV. Regulation VI. of 1831 provides that "all claims which have arisen and "have not been determined by the ordinary Courts of Judicature to the possession of or succession to he- "riditary village or other offices in the *Revenue* or *Police* Departments or to the enjoyment of any of the "Emoluments annexed to such offices shall, in the first instance, be adjudicable by the Collector of the "district in which the claim has arisen." Viewing this Regulation as applicable to the case in question, the Collector under Sect. II. which declares all Emoluments derived from lands attached to such offices to be inalienable, placed the original Meerasidars in possession of the office, and the Emoluments annexed to it.

5. The Board would not hesitate to recognize Petitioners' claim if it were not for the circumstance that they as Sudras cannot perform the service attached to the Emoluments. It seems immaterial to consider whether their claim can be disposed of under Regulation VI. of 1831, as argued by the Collector or should be decided under the general rules, for under any circumstances it appears to the Board inexpedient to recognize the transfer of a service Enam to persons who are disqualified for the performance of its duties and must always have recourse to the intervention of others for the performance of the services of which they appropriate the remuneration.

I have the honor to be,
Sir,
Your most obedient servant,

Sub Secretary.

Revenue Board Office,
Fort St. George,
15*th February* 1858.

29th September 1857 No 35 30

Revenue 1858 Depart.
D/ to Cons. 12th March
No 227

From
The Sub Secretary to the
Board of Revenue

To
The Acting Secretary to
Government
Revenue Deptt

Dated 15th } February 1858.
Rec'd 16th }

6 Encls.
Returned No 627

No 289. 4th March 1858.

Submitting with the Board's remarks, a letter from the Collector of Chingleput reporting on the case of the Petitioners referred to in Exc: Mem: Cons of 30 September last, who claim to succeed to a certain Pun Mangum Meerassy.—

No 19.

Chingleput District
Collector's Cutcherry
Sydapet 12th Octr 1857

From
C. J. Shubrick Esqre
Collector of Chingleput

To
J. D. Sim Esqre
Actg Secy to the Bd of Revenue
Fort Saint George

Sir,

Agreeably with the instructions of Government contained in Extract from Minutes of Consultation No 990 of the 26th Ulto, I have the honor to submit the following report on the Claim preferred by the Petitioners to the Punchayet Curnum or Calendar Merassy of Namanjary and other Villages in the Seddapollium Talook

2 The Petitioners claim the Merassy in question in virtue of a Mortgage Deed executed previous to the enactment of Regulation VI of 1831 which provided that it should lapse to them in perpetuity, if unredeemed by a certain date.

3 The Provisions of the Mortgage Bond are not disputed by Petitioners' opponents, who generally admit the correctness of Petitioners Statements, but they ask for the restoration of the Merassy on the ground of their being the recognised Merassidars, and having ever continued to perform the Duties of the Calendar Office as entitled to perform them; and not as Goomastahs to the Petitioners.

4 The decision of the case appears to me to rest on the interpretation to be put upon

Clause I Sect.n IV Reg.n VI of 1831 which states that "all claims which have arisen and have not been determined by the ordinary Courts of Judicature or which may hereafter arise to the possession of or succession to hereditary Village or other Offices in the Revenue and Police departments, or to the enjoyment of any of the emoluments annexed to such Offices, shall, in the first instance, be adjudicable by the Collector of the District in which the claim has arisen or may arise."

The Claim in question has not been decided by the ordinary Courts, but would have been adjudicable by them if Reg.n VI of 1831 had not been enacted. Having been advanced subsequent to the enactment of that Regulation, the provisions of that Regulation appear to me to guide the decision; and as that Regulation has provided that the emoluments in question shall be inalienable from the Offices to which they were attached, it appears to me to follow that the Petitioners can have no claim to them whatever, and that they are legally restorable to their opponents, the original Merassidars.

To allow the Petitioners' claims, is to allow them on the date of the Mortgage Deed alone. Their argument is, that because that Deed was dated prior to the enactment of Reg.n VI of 1831, therefore though undetermined by the Ordinary Courts, it is to be considered valid and beyond all questioning. I believe the words in Clause I Sect.n IV "or which may hereafter arise

had a retrospective effect, and were intended to refer to unadjudicated claims and transfers as well as to those which might afterwards arise. Not confined alone to cases which Reg.n VI disallowed for the future, but to cases which having already happened might be afterwards questioned. To consider otherwise is to hold that all transfers prior to Reg.n VI of 1831 were final, and beyond dispute; but this is no where stated in the Regulat.n which only confirmed cases actually disposed of; and cannot, I think, be maintained.

6 Acting under this view, I placed the original Merassidars in possession of their Offices, and its attendant emoluments, leaving them to sue the Petitioners for their Summed Monies in the Ordinary Courts.

7 It is perhaps right to add that the Petitioners are Sadras, and incapacitated to perform the Calendar Office, an additional reason for depriving them of its emoluments.

I have the honor to be
Sir
Your most Obed.t Serv.t

Collector

No 289.

Extract from the Minutes of Consultation
Under date the 4th ~~February~~ March 1858 -

Read the following letter
from the Sub Secretary to the Board
of Revenue -
(Here enter 15th Feby 1858 No 627)

In Pursuance of the above
Directions of Petition of Prisinger Pelly
and Signatures to the
protesting against the
Dispossession of the Tenure
from Khondagee Tenure in certain Villages
Which together with the
Remainder Land of the
Zemindary Then in
1859 and remained in
their undisturbed possession
for 28 Years -

In Pursuance

Appeal to the Privy Council
Appeal on 26. Sept. last.

They agree in opinion
with the Collector that the
case was one adjudicable
by him under Act. No. 1. of
1837. and that the claim
was not barred by the
Act of the Mortgagor having
been Resident beyond the
Limits of that Regulation
but it was competent to
him to inquire into
the merits of the case
and to pass his decision in that
judicial form. Which,
from the papers appears he
has done. and Which
he is accordingly
desired to do.

7 Sept. 1838

22. July 1838

3 Copies to the Register
Dispatched

Cons: 29th Septr/57 - No 35-36

Revenue 1858 Despatch
Dy. to Cons 12th March

No 289

Extract Letter of Cons:
Dated 4th March/58.

From Collr of Chungleput Dy
14th Feby/58 - No 279 - in Cons

Directing the Collector of Chingleput to proceed in
summary manner in the case of certain
Petitioners who claim to succeed to a Punchangum Mirasy
in Chingleput.

Rs Nos 19 & 20