

Revenue Department

Minutes of Consultation.

2nd March 1858.

Back Nos 47 & 48.

Order No 263 of 27th Feb 1858.

152 sub

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Fort Saint George, Revenue Consultation of 2d March 1858.

No. 47. Read the following Extract from the Proceedings of the Board of Revenue; dated 4th December 1857, No. 4348.

Read letter from the Acting Collector of Masulipatam dated 24th October 1856.*

* *In Consultation 4th December 1857.*

(Here enter No. 150.)

With the above letter the Acting Collector submits detailed statements of certain Enams of a questionable character with a request to be favored with instructions as to how these and other similar grants made by a former Zemindar of Goodewadah should be treated. The question, the Acting Collector observes, is one of some magnitude and therefore demands careful consideration.

2. The Statement marked A. refers to two Enams bearing a close analogy to each other. The first consists of 4 Cutties of wet land and the second of 5 Cutties both of which appear to be hereditary grants conferred in charity anterior to the permanent Settlement. The first Grant is dated Fusly 1169 (A. D. 1759-60) antecedent to the date fixed in Section II. Regulation XXXI. of 1802 as that from which prescriptive right is to be recognized. The second is of a much later date (1795-96) and was made in lieu of 8 Cutties of land, which were assigned in Fusly 1169 (1759-60) and resumed in Fusly 1205 (1795-96). The entire Enam in these 2 cases amount to 9 Cutties. In the former the extent actually enjoyed seems to have been one Cutty only in the latter, the whole extent was sometimes fully cultivated. In Fusly 1235 (1825-26) the extent cultivated was one Cutty and no Cutties respectively, but from that date the Enams were limited to these quantities only, the remaining 6 Cutties being entered in the village accounts as liable to full assessment and held as such so far as cultivated. There was no formal relinquishment of this portion of the Enams by the Enamdars. It was *From Ag. Collr. p. 4.* left uncultivated on account of poverty or absence and thus brought under the head of Government lands. In 1844 the Enamdar sought the restoration of these 6 Cutties, but as no final orders were passed by the local authorities, the Acting Collector refers their claim for the decision of the Board.

3. The total extent of enam in the village of Tamarasah is stated to be 87 cutties of which 37½ are held by the Enamdars, and remaining 50 or about 850 acres including the six Cutties above mentioned having been left waste for years were added to the Government lands, and have been assessed to the Revenue ever since.

4. It is not explained by the Acting Collector whether any portion of the Enams thus incorporated with lands paying full assessment was cultivated and paid for by the Enamdars in the interval between Fusly 1235 (1825-26) and Fusly 1254 (1844-45) a consideration of this point is necessary in order that it may be determined how far the provisions of Section IV. Regulation XXXI. of 1802 may be viewed as bearing on the case.

This Section declares that "where the lands of persons claiming to be exempted from the payment of revenue under authentic titles may have paid revenue, notwithstanding such titles for a period of 12 years antecedently to such claims, the said lands shall continue to pay the public revenue in the same manner as if no such titles existed and the said titles shall be null and void."

5. The Acting Collector has also omitted to state what information is afforded by the accounts of the permanent Settlement regarding these Enams.

6. But the most important point for decision is whether these lands were exempted from assessment by competent authority. The grants were made by a descendant of Camadana Iyennah, who held service as Commandant of armed retainers under the Nozeed Zemindar by whom certain Districts were assigned to the family as Jaghire in which the Enams in question were situated. The heirs and successors of C. Iyennah Mr. Fraser observes "made the most of their incumbency by alienations on a large scale, which are all respected and continue in force more or less to this very day." These alienations seem to be very extensive and it is for Government to decide whether they were made by competent authority.

From Acting Collector para. 6.

In the event of its being determined in the negative, the claims of the parties will rest on the bounty of Government.

* செப்பனிருவர் பெயர் *

* *செப்பனிருவதற்காக எடுத்தக்* *

* *கொள்ளப்பட்ட நாள் 4/03* *

* *செப்பனிரு முடிந்த நாள் 6/08* *

* *சான்றுக்கும் இராயசேதி உதவி* *

* *மு.நி.பா. யாவர்* *

* *கையொப்பம் கையொப்பம்* *

Fort Saint George, Revenue Consultation of 2d March 1858.

7. The next Enam requiring notice is the one entered in Statement B. It consists of half a cutty of land in the Seapoody village, and is claimed in virtue of a sunnud purporting to have been granted by Camadana Sobanadry Row Zemindar of Goodewadah in Fusly 1203 (1793-94) prior to the permanent Settlement. The original grantee it is said enjoyed this land until Fusly 1237 (1827-28) when the village of Seapoody, which till then had been held as an Aggraharum was resumed on the ground that it had been granted subsequent to the permanent Settlement. In the following year Fusly 1238 (1828-29) when an attempt was made to cultivate the Enam by whom is not stated, the party was ordered to produce his Sunnud; and this document bearing date Fusly 1203 (1793-94) it is most singular was not then forthcoming, nor till 12 years after. Besides, no mention is made of this grant in any of the Public Accounts prior to Fusly 1230 (1820-21.) In the Register of Fusly (1232-1822-23) it appears as an Enam conferred subsequent to the Permanent Settlement.

8. In 1828, on the attachment of the Purgannah comprising the Charmabel Zemindary in which the Goodewadah Estate was included, the Collector was directed to resume the whole of the lands that had been alienated since the time of the permanent Settlement. The Enam in question should have been resumed at the time. The present claimant never had possession, nor does it appear that it was in the occupation of other ryots till Fusly 1251 (1841-42). Under these circumstances, the Acting Collector is requested to assess the land to the revenue and to credit the collections kept in deposit amounting from Fusly 1251 to 1265 to Rupees 45-13-11. Supposing the grant to have been made before the date of the permanent Settlement the question as to the competency of the party making it would be involved as in the cases already noticed.

9. The Statement C. refers to one Cutty of land in the Poolcondah village said to have been granted by the Chaudhari and Despandya in Fusly 1125 (1715-16.) The great grand sons of the original grantee, among whom the Enam was divided having been long absent from the country, the $\frac{1}{2}$ Cutty designated "Dalwa," for which, owing to the lapse of time, no specific spot could be shown, was included in the public accounts under the head of "Sary" or Government lands, and the other half designated "Sarwa," which is the only portion now claimed has been in the occupation of other ryots from whom the assessment has been collected and kept in deposit since Fusly 1255, (1845-46.) The present claimant having been out of possession for a period of 33 years and the grant having been originally made by parties, who were in competent to alienate lands; the claim for a revival of the enjoyment cannot be recognized.

10. With regard to the Enam granted by the Collector Mr. Wragham to a Pagoda in Fusly 1206, (1796-97) referred to in Statement D, the Government have repeatedly declined to recognize such grants. The Acting Collector will accordingly resume the 8 Veesums of land in the village of Talaguda deevi as an unauthorized alienation.

11. Referring to the last para. of the Acting Collector's letter in which permission is asked to register the names of the purchasers and other holders of Enams prior to the promulgation of the Enam rules dated 27th July 1848, the Board see no objection to the registration of such Enams on the distinct understanding that it is not intended to recognize the validity of the transfer. In all such cases the Acting Collector will be careful to report lapses as they occur.

Ordered that a copy of the above Proceedings be forwarded to the Acting Collector of Masulipatam and also to Government.

(A true Extract.)

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

No. 48.

ORDER THEREON, No. 263; dated 27th February 1858.

In their Proceedings above recorded, the Board of Revenue submit, for the consideration and orders of Government, a letter from the Acting Collector of Masulipatam, dated 24th October 1856, in which detailed statements of certain questionable Enams in that District are furnished,

Fort Saint George, Revenue Consultation of 2d March 1858.

with the view of obtaining the instructions of the Board as to the way in which the said grants should be treated.

Board, para. 2, 6.

Board, para. 6.

Para. 6.

2. The first statement enclosed in the Collector's letter relates to two Enams granted in 1759-60 and in 1793-96, by "a descendant of the Commandant of armed retrainers under the Noozed Zemindar, by whom certain districts were assigned to the family as Jaghire; in which the Enams in question were situated." After remarking that the Acting Collector should have stated whether any portion of the Enams which has been incorporated with assessed lands was cultivated and paid for between Fusly 1235 and Fusly 1254, in order that it may be determined how far the provisions of Section IV. Regulation XXXI. of 1802 may be viewed as bearing on the case, and after shewing that no information has been furnished as to whether the Enams in question are supported by the accounts of the permanent settlement, the Board go on to say, "but the most important point for decision is whether these lands were exempted from assessment by competent authority, the alienations are very extensive, and it is for Government to decide whether the authority making them was competent to do so."

3. The Governor in Council has no hesitation in recording his opinion that the party who is said to have made these grants was wholly incompetent to alienate the public revenue in perpetuity. Whatever indulgence the Government might be disposed to show towards grants by the Zemindars themselves, it is obvious that their servants, and the descendants of those servants, had no power whatever to grant any portion of the revenues of the State to private individuals. The whole of the Enams which are reported to have been granted by the heirs and successors of Iyanna, the Commandant of retainers referred to, are enjoyed entirely without title, and it remains to be considered how the Government can best reassert its rights.

4. The extent of the alienations cannot justly be allowed to influence the decision of the question, and large as is the area held under these unauthorized grants, they cannot, in the opinion of Government, be treated in any respect differently from the numerous small Enams which are daily reported for orders. The parties now in possession therefore will remain undisturbed, and on occasion of a lapse the Collector will proceed under the general rules in force.

5. The Enam entered in Statement B, is claimed by virtue of a sunnud purporting to have been issued by the Goodewada Zemindar in Fusly 1203, (A. D. 1793-94.) This grant was resumed in Fusly 1237, as the register of Fusly 1232 indicated it to be an Enam conferred subsequently to the permanent settlement. In Fusly 1238 an attempt was made to cultivate the land, and the party making the attempt to do so was ordered to produce his sunnud authorizing him to hold it rent free. No sunnud was however then forthcoming. When the Zemindary in which the Goodewadah Estate is situated was resumed, the Collector was ordered to bring to assessment all the lands which had been alienated since the permanent settlement; but this Enam does not appear to have been resumed, and it is now claimed as above said, by an individual who has never had possession. The Board have directed the Collector "to assess the land to the revenue, and to credit the collections in deposit" to the State. The Government approve of, and confirm these orders.

Board, para. 9.

6. The Enam referred to in Statement C. is claimed in part by an individual who has been out of possession for a term of 33 years; half has been already resumed, and the remaining half will be similarly treated. Even could the claimant's title be made good at all, he could have no hereditary claim to an unauthorized grant by "the Chandhavi and Despandy" as the one under notice is stated to be.

Board, para. 16.

7. The Board have rightly directed the resumption of a grant of 8 veesums of land made to a pagoda, by Mr. Wragham, Collector, in Fusly 1206, (1796-97).

8. In para. 10 of his letter, Mr. Frase states that the village accounts of his District bear the names of former holders of Enams in many cases, while the present incumbents are mere strangers: and as this state of things leads to confusion, and as many applications from purchasers and other holders of Enam lands who have come into possession prior to the promulgation of

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the Rules of 1848, to have such lands registered in their names, remain undisposed of, he proposes to permit the registration in the public accounts of the present possessors' names with those of the last holders, solely with a view to indicate present possession, the parties being distinctly given to understand that such registration will in no wise admit or confirm their title. The Board see no objection to comply with the Collector's wishes, observing that in all such cases the Collector should be careful to report lapses as they occur. The Governor in Council sees reason to disapprove of the proposed proceeding.

9. The Government are unable to see any thing in the Acting Collector's letter now under review, which can have necessitated its detention for 14 months in the Board's office.

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

Revenue Department.

N^o 1348

*Extract from the Proceedings of the
Board of Revenue, dated 14 December 1857*

*Read letter from the Acting
Collector of Masulipatam dated 24 October
1856.*

(Here Enter N^o 1350.)

*I With the above letter the Acting
Collector submits detailed Statements of
certain Enams of a questionable character
with a request to be favoured with instructions
as to how these and other similar grants
made by a former Zemindar of Goodavahat
should be treated. The question, the Acting
Collector observes, is one of some magnitude
and therefore demands careful consideration.*

*The Statement marked A refers
to two Enams bearing a close analogy to
each other. The first consists of 4 Cuttias
of wet land and the second of 5 Cuttias both
of which appear to be hereditary grants confer-
red in Charity anterior to the Permanent
Settlement. The first grant is dated *Thuly 1849*
10 1759/60
antecedent to the date fixed in Sec. II. Regulation
XXXI of 1802 as that from which prescriptive
right*

right is to be recognized. The second is of a much later date (1795/96) and was made in lieu of 8 Cutties of the 1, which were assigned in July 1794/95 and 18 and in July 1795/96. The entire Enam in these 2 cases amount to 9 Cutties. In the former the extent actually enjoyed seems to have been one Cutty only; in the latter, the whole extent was sometimes fully cultivated. In July 1735 the extent cultivated was one Cutty and four Cutties respectively, but from that date the Enam were limited to these quantities only, the remaining 6 Cutties being entered in the village accounts as liable to full assessment and held as such, as far as cultivated. There was no formal relinquishment of this portion of the Enam by the Enamdar. It was left uncultivated in account of poverty or absence and thus brought under the head of Government lands. In 1846 the Enamdar sought the restoration of these 6 Cutties, but as no final orders were passed by the local authorities, the Acting Collector refers their claim for the decision of the Board.

3. The total extent of Enam in

the village of Tamarada is stated to be 87 Cutties of which 34 are held by the Enamdar and the remaining 53 or about 850 acres including the 6 Cutties above mentioned having been left waste for years were added to the Government lands and have been assessed to the revenue ever since.

It is not explained by the Acting Collector whether any portion of the Enam thus incorporated with lands paying full assessment was cultivated and paid for by the Enamdar in the interval between July 1735 and July 1846, a consideration of this point is necessary in order that it may be determined how far the provisions of Section IV Reg. XXXI of 1802 may be viewed as bearing on the case.

This section declares that "where the lands of persons claiming to be exempted from the payment of revenue under authentic titles may have paid revenue, notwithstanding such titles for a period of 12 years antecedently to such claims, the said lands shall continue to pay the public revenue in the same manner as if no such titles existed and the said titles shall be null and void."

The

5. The acting Collector has also omitted to state what information is afforded by the accounts of the Permanent Settlement regarding these Grants.

6. But the most important point for decision is whether these lands were exempted from assessment by competent authority. The grants were made by a descendant of Camadana Syennah, who held service as Commandant of armed retainers under the Nayad Zemindar by whom certain districts were assigned to the family as Jaghirs in which the Grants in question were situated. The heirs and descendants of C. Syennah Mr. Fraser observed "made the most of their means" by alienations "on a large scale, which are all respected and continue in force more or less to this very day." These alienations seem to be very extensive and it is for Government to decide whether they were made by competent authority. In the event of the being determined in the negative, the claims of the parties will rest in the bounty of Government.

7. The next Grant requiring notice is the one entered in Statement B. It is

of half a culty of land in the Seapooddy village, and is claimed in virtue of a Sunnad purporting to have been granted by Samadara Sabaradny Row Zemindar of Godewadah in Suckly 1203 ^{1793/94} prior to the Permanent Settlement. The original grantee it is said enjoyed this land until Suckly 1237 ^{1827/28} when the village of Seapooddy which till then had been held as an Aggraharum was resumed on the ground that it had been granted subsequent to the Permanent Settlement.

In the following year Suckly 1238 ^{1828/29} when an attempt was made to cultivate the Grant by whom is not stated, the party was ordered to produce his Sunnad, and this document bearing date Suckly 1203 ^{1793/94} it is most singular was not then forthcoming nor till 12 years after. Besides, no mention is made of this grant in any of the Public accounts prior to Suckly 1230 ^{1820/21}. In the Register of Suckly 1232 ^{1822/23} it appears as an Grant conferred subsequent to the Permanent Settlement.

8. In 1828, on the attachment of the Purgannak comprising the Charnahal Zemindary in which the Godewadah Estate was included, the Collector was directed to resume the whole of the lands that had been

To follow 33 in Jan 22 Sept 1828.
To Govt 20 June 1831.
From do 8 Nov 1831
No 1022 R.D.

been alienated since the time of the permanent settlement. The Enam in question should have been resumed at the time.

The present claimant never had possession, nor does it appear that it was in the occupation of other Ryots till July 1251.

Under these circumstances, the Acting Collector is requested to assess the land to the revenue and to credit the collections kept in deposit amounting from July 1251 to 1265 to Rupees 45. 13. 11. Supposing the grant to have been made before the date of the Permanent Settlement the question as to the competency of the party making it would be involved as in the cases already noticed.

The Statement C refers to one Catty of land in the Pookundah village said to have been granted by the Chaudhari and Deshpandya in July 1225. The great grant, part of the original grantee, among whom the Enam was divided having been long absent from the Country, the Catty designated "Palwa", for which, owing to the lapse of time, no specific spot could be shown, was included in the Public accounts

under

under the head of "Sary" or Government lands, and the other half designated "Sarwa" which is the only portion now claimed has been in the occupation of other ryots from whom the assessment has been collected and kept in deposit since July 1253. The present claimant having been out of possession for a period of 33 years and the grant having been originally made by parties, who were incompetent to alienate lands, the claim for a renewal of the enjoyment cannot be recognized.

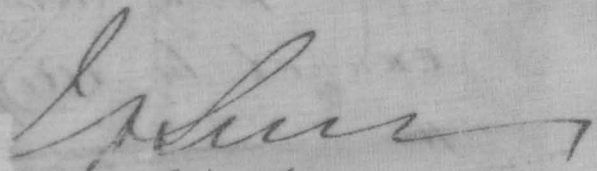
With regard to the Enam granted by the Collector Mr. Wrangham to a Pagoda in July 1206 referred to in Statement D, the Government have repeatedly declined to recognize such grants. The Acting Collector will accordingly resume the 8 Vesams of land in the village of Talaguda deeri as an unauthorized alienation.

Referring to the last para of the Acting Collector's letter in which permission is asked to register the names of the purchasers and other holders of Enams prior to the promulgation of the Enam rules dated

dated 24th July 1848, the Board see no objection to the registration of such Exams in the distinct understanding that it is not intended to recognize the validity of the transfer. In all such cases the acting Collector will be careful to report lapses as they occur.

Ordered that a Copy of the above Proceedings be forwarded to the acting Collector of Masulipatam and also to Government.

(True Extract)


ag Secretary

To,
H. Forbes Esq
Ag Secretary to Government
Revenue Department.

W9
Revenue Department

(A-263)

Extract from the Minutes of Consultation
Under date the 27th February 1858.

Read the following
Extract from the Proceedings
of the Board of Revenue.

(Here enter 1st Decr/57 A-263)

In their Proceedings
above recorded, the Board
of Revenue submit, for the
consideration and orders
of Government, a letter from
the Acting Collector of
Maulfikhan dated 24th
October 1857, in which detail
ed statements of certain
questionable claims are
that

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Revenue 1858
27th Feb 1858
20-10-24/1

Extract from the
Proceedings of the
Board of Revenue

Under 1st Decr/57
A-263

Revenue 1858
27th Feb 1858

Regarding the income
of the land in the
Maulfikhan
the Board of Revenue
has decided in favour
of the Government
and the land in the
Maulfikhan
has been granted by
the Government.

that district are furnished,
with the view of obtaining
the instructions of the Board
as to the way in which the
said grants should be
treated.

2. The first statement
enclosed in the Collector's
letter relates to two grants
granted in 1759-60 and
in 1795-96, by a descendant
of the Commandant of
armed retainers under
the Nozced Zemindar,
by whom certain districts
were assigned to the Family
as Sagher, in which the
grants in question were
situated. After remarking
that the Acting Collector
should have stated whether

Board p 2-6

B. p. 6

may

Wb
any portion of the grants
which has been incorporated
with a peeped lands was
cultivated and paid for
between July 1835 and July
1854, in order that it may
be determined how far the
provisions of Sec. IV Reg. XXXI
of 1803 may be varied as
bearing on the Case, and
after showing that no infor-
mation has been furnished
as to whether the grants
in question are supported
by the accounts of the Per-
manent Settlement, the
Board go on to say, "but
the most important point
for decision is whether
these lands were exempted
from a peepment by Com-
petent

p. 6

public authority... the alienations
are very extensive, and it is
for Government to decide
whether the authority making
them was competent
to do so."

3 The Governor in Council has no hesitation in expressing his opinion that the party who is said to have made these grants was wholly incompetent to alienate the public Revenue in perpetuity. Whatever might be the Government might be disposed to show towards grants by the Zemindars themselves, it is obvious that their servants and the descendants of those servants had no power whatever

will
to grant any portion of the
Revenues of the state to private
individuals. The whole
of the Grants which are
reported to have been granted
by the heirs and descendants
of Syanna, the Com.
mandant of Retamir, are
referred to, are enjoyed ^{entirely} without
title, and it remains
to be considered how the
Government can best
respect its rights.

The extent of the alienations cannot justly be allowed to influence the decision of the question, and large as the area held under these unauthorized grants, they cannot, in the
Government, be treated

treated in any respect dif-
ferently from the numerous
small claims which are
daily reported for orders. The
parties now in possession
therefore will remain un-
disturbed, and on occasion
of a lapse the collector will
proceed under the general
rules in force.

5 The claim entered in
State B, is claimed by virtue
of a Summud purporting
to have been issued by the
Goddivada Zemindar in
July 1803 A.D. 1793-94.
This grant was resumed
in July 1837, as the Register
of 1838 indicated it to be
an claim conferred subse-
quently to the Permanent
Settlement.

B² p 8

W12

Settlement. In July 1838
an attempt was made to
cultivate the lands, and the
party making the attempt
to do so was ordered to pro-
duce his summud authoriz-
ing him to hold it rent free.
No Summud was however
then forthcoming. When
the Zemindary in which
the Goddivada estate is
situated was resumed,
the collector was ordered
to bring to a settlement all
the lands which had been
alienated since the Per-
manent Settlement, but
this claim does not ap-
pear to have been resu-
med, and it is now claimed
as above said, by an
individual

individual who has never
had possession. The Board
have directed the Collector
to apportion the land to the
Revenue, and to credit the
collections in deposit to
the state. The Government
approve of, and confirm
these orders.

The claim referred
to in statement C is claim
made in part by an individual
who has been out of possession
for a term of 33 years,
half has been already re-
turned, and the remaining
half will be similarly
treated. Even could the
claimants title be made
good at all, he could have
no hereditary claim to

B. p. 9

1847-48

^{W. 13}
an unauthorized grant by
"the Chandhari and Deshpande"
as the one under notice is
stated to be.

7 The Board have
rightly directed the resump-
tion of a grant of 8
Vessums of land made to
a Pagoda, by Mr. Wroughton,
Collector in July 1206-1796-97.

8 In para 10 of his letter
Mr. Fraser states that the
Village Accounts of his Dis-
trict bear the names of
former holders of lands
in many cases, while the
present incumbents are
mere strangers: and as this
state of things leads to con-
fusion, and as many
applications from purchasers
and

and other holders of Crown
lands who have come into
possession prior to the pro-
mulgation of the Rules
of 1848, to have such lands
registered in their names,
remain undisposed of,
he proposes to permit
the registration in the Public
accounts of the present
proprietors names with
those of the last holders,
solely with a view to indi-
cate present possession, the
parties being distinctly given
to understand that such
registration will in no
wise admit or confirm their
title. The Board see no objec-
tion to comply with the
Collector's wishes, observing

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that in all such cases the
Collector should be careful to
report lapses as they occur.
The Governor in Council sees
no reason to disapprove
of the proposed proceeding.

The Government are
unable to see any thing in
the Acting Collector's letter
now under review, which
can have necessitated its
detention for 16 months
in the Board's Office.

22

is to the Adm. Genl
with 11 Dec 41. C. D. 1st March

Revenue 1858 Dispatch
By to Cons. Dullarch

No 263
Extract Memo. of Cons.
Dated 27th Feb 58

Approval of the instructions
issued by the Board of Revenue to the
Acting Collector of Masulipatam
as to the course to be pursued
with respect to certain Enam
a questionable character stated
to have been granted by a
former Zemindar of Goodwoodch.

No 47848