

21
Revenue Department

Minutes of Consultation

4th May 1858

Back nos 18 & 19

Order No 546 d/29th April
1858

(S. G. G. G.)

 * செப்பனிருபவர் பெயர் *செப்பனிருபவர்*
 *
 * செப்பனிருவதற்காக எடுத்தக் 6/2/08
 * கொள்ளப்பட்ட நாள்
 *
 * செப்பனிரு முடித்த நாள் 8/2/08
 *
 * சாப்பார்க்கும் ஆராய்ச்சி உதவி*
 * மு. நி. பா. எ. யாளர்
 * கையொப்பம் கையொப்பம்
 *

Fort Saint George, Revenue Consultation of 4th May 1858.

No. 18. Read the following Extract from the Proceedings of the Board of Revenue ; dated 15th April 1858, No. 1314.

Read again letter from the Acting Collector of Canara, report-
Dated 19th October 1857. ing that the usefulness of Regulation V. of 1822 in his district will
In Cons. 15th April 1858. be seriously impaired by an order issued by the Court of Sudder
 Udalut, that the decisions passed by the European Revenue officers
 under that Regulation are to be passed after a personal examination only, and not upon the in-
 vestigation and report of a Tahsildar.

The peculiarity of the tenures in Canara, the value of land and the extent to which the re-
 lationship of Landlord and tenant is carried out, have made Regulation V. of 1822 of a practical
 value unknown in other districts. Numerous summary suits have been annually filed under it,
 and the ordinary course has been to refer them for primary investigation and report to the
 Tahsildars. If the proceedings and reports of those officers were full and clear, a decision was

passed upon them, or otherwise the Collector first took either
Dated 4th Sep. 1857, Enc. No. personally or through the Tahsildar such additional evidence
2 in from Canara 19th Oct. 1857, as was required. The Judges of the Sudr Udalut have now
in Cons. 15th April 1858. declared more stringently that the Regulation does not allow

Tahsildars to be employed in making this preliminary en-
 quiry, and the Acting Collector represents that the value of the Regulation will be consequently
 lost, as the heavy duties which already devolve on the European Revenue officers would render
 it impossible for them to take the evidence in all these summary suits, and complainants will be
 deterred by having to appear before a distant officer, and by unavoidable delays in the disposal of
 their suits.

2. The Board observe that the operation
Ex. M. Con. 27th April in Cons. 1st June 1854, of Regulation V. of 1822 in Canara was recently
No. 503, R. D. reported upon by order of Government in con-
Pro. of Board 21st September in Cons. 1st June sequence of a question being raised as to its in-
1854, No. 2057. troduction into Malabar for the more speedy
 settlement of those disputes regarding land and

On this occasion the Board incidentally alluded
 to the subject of the primary investigation of
 these suits in Canara being conducted by the
 Tahsildars, and this point shortly afterwards
 came into prominent notice in consequence of
 the Collector reporting that the Court of Sudr

Udalut had objected to this course as unauthorized by the Regulation.

3. This exposition of the existing state of the law being decisive, a discussion arose as to
 the remedial measures which ought to be taken. The Board proposed obtaining an Act authoriz-
 ing Collectors to refer these summary suits to Tahsildars for preliminary investigation, in ac-
 cordance with the course followed under the Bengal Code, while the Government objected to this

plan and suggested, that the
 Tahsildars should be empower-
 ed to pass decisions as well as
 take the evidence. The Board
 however thought that this sys-
 tem would lengthen procedure

by adding to appeals and would involve other difficulties. They therefore adhered to their first
 recommendation, and as the principle of allowing one functionary to take the evidence and
 another to pass the decision had been called in question, they pointed out that this course was
 followed under the Bengal Code in the disposal of the numerous summary suits which come be-
 fore Collectors, and is expressly sanctioned by many of the Madras Regulations. To the exam-
 ples which the Board then gave they might have added C. 4 S. 4 Regulation 7 of 1823 which
 authorizes Collectors to employ their Sheristadars in examining cases in which they afterwards
 pass decisions under Regulation IX. of 1822, and C. 1 Sec. 21 Regulation V. of 1804 which is
 founded upon C. 2 S. 32 Regulation X. of 1793 of the Bengal Code. In that latter enactment

Fort Saint George, Revenue Consultation of 4th May 1858.

the wording is as follows: "The Court of Wards may order the Collector to enquire into and report upon any such charges against Guardians or Managers but the Collector is not to pass judgment which is to be given by the Court of Wards."

Ex. Mins. Cons. 3rd in Cons. 7th August 1855, Revenue Department, No. 929. See printed volume page 70.

4. Here the discussion ended, as Government left the point for Mr. H. Stokes' consideration in preparing the new Revenue Code. In his Draft Act No. 3, Sections 27 to 29, that Gentleman recommended the adoption of both courses, as Collectors are to be empowered to pass orders on investigations made by Tahsildars under their orders, while Tahsildars are to have authority to give decisions in Suits where the value in dispute does not exceed a certain sum. This Draft Act was reviewed by Government in Extract Minutes Consultation 18th February 1857, No. 173, and as the point will come under further consideration in the discussions on the new Code, the Board resolve to submit the Acting Collector's present letter to Government for their information, and in order, that should they see fit, it may be added to the correspondence to be forwarded to the Legislative Member.

5. Until the law is placed on a new basis the Revenue authorities in Canara must act on the construction placed upon Regulation V. of 1822 by the Sudr Udawlut. Disputes relating to the wrongful diversion of water, or the forcible occupation of crops or land can, it is observed, be received and examined by Tahsildars in their police capacity, and the European authorities must use their endeavours to dispose of other cases either by Punchayets or a personal investigation.

6. The Board will only add that they have not advocated the system under which one functionary investigates a case and another passes the decision, as being good in itself. They are aware of the arguments which may be urged against it, but have been led to the opinion that it is necessary under the peculiar circumstances of our administration in order that greater inconveniences may be avoided.

(A true Extract.)

(Signed) G. S. FORBES, Secretary.

No. 19.

ORDER THEREON, No. 546; dated 29th April 1858.

1. Resolved that transcripts of the Proceedings recorded above, and the enclosures, be forwarded to the Government Pleader, with reference to para. 18 of Extract Minutes Consultation 18th February 1857, No. 173, Revenue Department.

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

Revenue Dep't.

D. No. 546

*Extract from the Minutes of Consultation
Under date the 29th April, 1858.*

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

*Submitting with the Board's
observations a letter from
the Acting Collector of
Canara relative to the
operation of Regulation
V. of 1822 in connection with (Here enter 15th April 1858
No. 13th)
the orders of the Court of
Sudder Udawlut that de-
cisions cannot be passed
under that Regulation
upon a preliminary en-
quiry made by a Tahsildar.*

*1. Resolved that trans-
cripts of the Proceedings
recorded above, and the
enclosures, be forwarded
to the Government Pleader,
with reference to Para 18
of Extract Minutes Con-
sultation 18th February
1857, No. 173 Revenue
Department.*

*Copy to Govt Pleader
with 7 Encs
Dated 29*

*Attest Extract
G. S. Forbes*

Revenue 1858-59
By the Com. of the

1858-59

Exp. of the Com. of the
1858-59

to the

84/67

Sp

1858-59

Resolving to forward
to the Government, under the
transcript of the proceedings
of the Board of Revenue and the
substances, respecting the
substance of Regulation No. 18 of 1857
in the District of Tanjore, with
reference to the 18th February 1857,
1857.