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Revenue Department

Minutes & Consultation

2nd July 1858.

Bach No 26 x 27

Order No 878 & 725 4 June 1858

7 Sheets.

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர் : மா இராமலிங்கம்

செப்பனிடுவதற்காக எடுத்துக்-
கொள்ளப்பட்ட நாள். 07/8.

18/2/08
சரிபார்க்கும்
முதல் முநியாள
கையொப்பம்

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ஆராய்ச்சி
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கையொப்பம்

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

No. 26. Read the following Extract from the Proceedings of the Board of Revenue, dated 2d June 1858, No. 1949.

In Con. 2d June 1858. Read Extract Minutes Consultation, dated 5th May 1858, R. D.,

(Here enter No. 583.)

In this order Government communicate a Minute by the Honorable D. Eliott, Esq., Member of the Legislative Council for the Madras Presidency, expressing objections to bringing before the Legislature the Draft Act prepared by the Board to amend Act XXIII. of 1856, and facilitate the recovery of arrears of revenue in Ryotwary Districts.

Ex. Mins. Cons. 30th Jan. in Con. 2d Feb. 1858, *No.* 131, *R. D.*

2. The necessity of amending the above-mentioned Act arose from its being found to have taken away the power which was vested in Collectors, previous to its enactment, of selling land for arrears of public revenue under Regulation 27 of 1802. Land can only now be sold under the provisions* of Regulation 28 of 1802, by the cumbersome process of an application to the Civil Court and after the revenue year has expired.

* *C. 7, Sec.* 34.

3. Mr. Eliott expressed his unwillingness to propose the amendment of an Act so recently passed unless an absolute necessity existed, and as he found among the papers laid before him a decision of the Subordinate Court of Combaconum declining to sell some land for arrears of revenue on the application of the Collector, because that Officer had power to sell it himself under Regulation 27 of 1802, he proposed that Revenue Officers "should take that decision for their "guide in practice so long as it is not superseded by the judgment of a Court of higher autho-"rity."

4. In proposing this course Mr. Eliott did not feel satisfied that the decision of the Subordinate Court was sound, and it has been since reversed on appeal by the Civil Court of Combaconum, which decided that the application made by the Collector to the Sub-Court to order the sale of land for arrears of revenue under Section 38, Regulation 28 of 1802, was in accordance with Act XXIII. of 1856. This being the case recourse to Regulation 27 of 1802, seems to the Board barred, as the arrears provided for by that Regulation and by Section 38, Regulation 28 of 1802, are so essentially different, that the applicability of one Regulation is a proof of the non-applicability of the other. The necessity for amending this Act is therefore still pressing, and the Board hope that the present Member for Madras will receive the instructions of Government to bring the subject before the Legislative Council at the earliest period. To shew the increasing necessity for the Law being placed on a clear and practical footing, the Board resolve to lay before Government a letter just received from the Acting Collector of Madura.

Letter from Acting Collector of Tanjore with Enclosure 11*th in Con.* 31*st March* 1858.

Dated 18*th May, in Consultation 2nd June* 1858.

(A true Extract.)

(Signed) G. S. FORBES, *Secretary.*

Ordered in consequence that the following letter be despatched.

No. 27. From W. H. BAYLEY, Esq., Acting Secretary to the Government of Fort St. George; to H. FORBES, Esq., Member of the Legislative Council for the Madras Presidency, dated 25th June 1858, No. 878.

SIR,

In a Minute dated 7th April 1858, Mr. Eliott, the late Member of the Ligislative Council for this Presidency, stated his objections to bringing before the Legislative Council, the draft of an Act to amend Act XXIII. of 1856, submitted with a letter from this Department dated 26th February 1858, No. 261. Mr. Eliott referred to a decision which had been passed by the Subordinate Court of Combaconum, declining to entertain an application of the Collector of

Tanjore to order the sale of the lands of a defaulter, under the provisions of Regulation XXVIII. of 1802, on the ground that Act XXIII. of 1856, does not supersede, or in any way interfere with, the operation of Regulation XXVII. of 1802, and that Collectors have still the power of putting up land to sale under that Regulation. Mr. Eliott observed that he was not prepared to declare that the decision of the Subordinate Court of Combaconum was correct; but he was of opinion that, while that decision was not overruled, it could hardly be affirmed that Act XXIII. of 1856 needed amendment, as obliging Collectors to follow the cumbrous and inconvenient process, for the sale of land for arrears, prescribed in Regulation XXVIII. of 1802; adding that he saw no reason why "Revenue Officers should not take that decision for "their guide in practice, so long as it is not superseded by the judgment of a Court of higher "authority."

2. From the accompanying communication,* and its enclosures, from the Board of Revenue, it will now be seen that the decision of the Sub-Court has been reversed, on appeal, by the Civil Court of Combaconum, which has decided that the application made by the Collector to the Sub-Court, to order the sale of the land of the defaulter referred to, under Section XXXVIII. Regulation XXVIII. of 1802, was in accordance with Act XXIII. of 1856. The Board therefore are of opinion that recourse to Regulation XXVII. of 1802 is barred by this decision, and that the necessity for amending Act XXIII. of 1856 is still pressing. And as the letter from the Acting Collector of Madura, to which they refer in the concluding para. of their Proceedings, clearly shews the inconvenience that is experienced from Collector's being obliged by Act XXIII. of 1856 to follow the cumbrous process laid down in Regulation XXVIII. of 1802, for the recovery of Ryotwary arrears, I am desired by the Right Honorable the Governor in Council to request that you will bring before the Legislative Council, in view to its early consideration and enactment, the draft Act to amend Act XXIII. of 1856, transmitted with a letter from this Department dated 26th February last, No. 261.

* *2d June* 1858, *No.* 1949.

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No. 878

H. Forbes, Esqr.
Member of the Legislature
Council for the Madras
Presidency.

Sir,

In a Minute dated
7th April 1858, Mr Eliott, the
Acting Member of the Legislative
Council for this Presidency,
stated his objections to bringing
before the Legislative Council
the draft of an Act to
amend Act XXIII of 1856,
submitted with a letter from
this Department dated 26th
February 1858, No. 261 - Mr Eliott
referred to a decision which
had been passed by the
Subordinate Court of Combaconum,
declining to entertain an ap-
plication of the Collector of
Tanjore to order the sale of

the lands of a defaulter, under
the provisions of Regulation
XXVIII of 1802, on the ground
that Act XXIII of 1856 does not
supersede, or in any way interfere
with, the operation of Regulation
XXVIII of 1802, and that Collectors,
notwithstanding that Act, have
still the power of putting up
land to sale under that Regulation
XXVII of 1802. Mr. Eliott observed
that he was not prepared to
declare that the decision of
the Subordinate Court of
Combaconum was correct, but
he was of opinion that, while
that decision was not over
ruled, it could hardly be af-
firmed that Act XXIII of 1856
needed amendment, as obliging
Collectors to follow the cumbrous
and inconvenient process, for
the sale of land for arrears,
prescribed in Regulation XXVIII
of 1802; adding that he saw

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no reason why Revenue Officers
should not take that decision
for their guide in practice, so
long as it is not superseded
by the judgment of a Court
of higher authority."

From the accom-
panying communication, and
its enclosures, from the Board
of Revenue, it will now be
seen that the decision of the
Sub Court has been reversed,
on appeal, by the Civil
Court of Combaconum, which
has decided that the appli-
cation made by the Collector
to the Sub Court, to order
the sale of the land of the
defaulter referred to, under
Section XXXVIII Regulation XXVIII
of 1802, was in accordance
with Act XXIII of 1856. The
Board therefore are of opinion
that recourse to Regulation XXVIII
of

1802 is barred by this decision, and that the necessity for amending Act XXIII of 1856 is still pressing. And as the letter from the Acting Collector of Madura, to which they refer in the concluding para of their Proceedings, clearly shews the inconvenience that is experienced from Collectors being obliged by Act XXIII of 1856 to follow the cumbrous process laid down in Regulation XXVIII of 1802, for the recovery of Ryotwary arrears, I am desired by the Right Honorable the Governor in Council to request that you will bring before the Legislative Council, in view to its early consideration and enactment, the draft Act to amend Act XXIII of 1856 transmitted with a letter from

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from this Department dated 26th February last N° 261.

Fort St. Geo. 25th June 1858

W. H. B.

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Revenue 1858 Departt.
D.G. to Couns. 2d July/58

No. 1878
To the Member of the Legislative
Council for the Madras Presidency

D/ 25th June/58.

Note: pursuant to Pro: 13th of Revoked
9th July 1838 C. No 1105. to Couns. 9th Sept.

Requesting him to
bring before the Legislative
Council in view to its early
consideration and Enactment
the draft act to amend
Act XXIII of 1856 transmitted
with a letter from this
Office dated 26th February
last No 261.—