M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1061 Press ~~Mis~~

397—398

Dated 19th April ~~19~~ 1869

Not to be folded or roughly handled

No. 397. Read the following Proceedings of the Board of Revenue, dated 5th February 1869, No. 802 :—

Read the following Proceedings of the Madras Government, dated 22nd December 1868, No. 3,188, Revenue Department.

ABSTRACT.—*Mr. Montclar's land taken up for Public Works in Godavery District.*—Board of Revenue to submit observations on the Collector's remark with reference to the payment of compensation.

IN paragraph 4 of his letter, the Collector states that money compensation for land taken up for public purposes at the time to which these claims relate, (namely, 1857,) was never thought of, as the ryot was not then practically considered the proprietor of the soil ; and on this the Board's observations are requested.

2. As regards the question of fact, there is no reason to doubt that lands were formerly taken up without compensation being asked or granted. Before 1854 lands were almost valueless, and were by no means fully appropriated.

3. The ryots were glad to give up portions of their land for public improvements likely to enhance the value of the remainder, and either resigned such portions altogether or took other lands in lieu.

4. As a question of principle there can, the Board conceive, be no doubt as to the justice of the claims of ryots to compensation.

5. They have a right of perpetual occupancy, subject to payment of assessment, and if their right be determined by an act of State, it must be compensated, whatever it may be worth.

6. The Board consider that Mr. Montclar is entitled to compensation at the selling price of land at the time that these lands were assumed.

No. 398. ORDER THEREON, 19th April 1869, No. 1,061.

Miscellaneous.

WITH reference to the Proceedings of the Board of Revenue, dated February 5, 1869, the Government resolve to lay down the following rules regarding the assumption, for Government purposes, of land held by private individuals :—

(1.) In each case the total area of land so assumed should be calculated, and the assessment on it remitted as soon as possible after occupation.

(2.) No claim for the selling price of such land, the origin of which arose more than twelve years before the date of its preferment, will be entertained. Subject to this limitation, the Government reserve to themselves the right of deciding on each particular claim which may be presented.

2. In Monsr. Montclar's case, the Government resolve to grant to him compensation for 11 acres and 71 goontahs according to the selling price of land in 1857. The Collector of the Godavery District will be good enough to ascertain this as accurately as possible, and to submit a brief sketch of the data on which his calculation is based.

Proceedings of the Madras Government, Revenue Department,
19th April 1869.

3. The Collector is also directed to transmit to Monsr. Montclar the sum of Rupees 22-12-9, which is apparently still due to him as an unadjusted balance in his favor.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.
„ the Collector of the Godavery District.
„ the Accountant-General.

Exd. F. R. Bantleman.

A Statement showing the Reserve

Cont. of 1869: Madras.

REVENUE.

To

THE BOARD OF REVENUE.

&c. &c. &c.

Dated 1 *April*, 1869.

Read. Encl

G. O., 19th April 1869, *No.* 1,061

Rep. of the Board of Revenue dy 27th July 1869 Ept 2582

APRIL.

Nos. 397-398.

Monsr. Montclar's land taken up for Public purposes in Godavery District.—Collector to report the amount of compensation to be paid for it and to adjust the balance still due to Him

Cont. 3.

Memo: for Board of Revenue No. 458

Letter from the years
1865-1869 Mr. A. Montclar
requesting indemnity for the
Government use of his
Factory of Matla for Silk
with reference to former letter
on the subject and requesting
the Board's orders on the
Collector of the Godavery
District in pursuance of
Order in Council dated 1st
April 1868 No. 1061

? 1857

Mr. A. Montclar
Mr. Wm. Hall

* Claim read finally regarded
in Despatch dated 15th
Augt 1870 by the Secretary
of State with reference to Mr.

he should be very reluctant to disturb any decision arrived at seven years before and sanctioned by the Government at Home, unless some new circumstances were brought to notice, which the Authorities at Home or abroad had not had the opportunity of considering." The Government ordered a copy of this Despatch to be transmitted to Mon. Montclar on September 23rd 1867.

3. On May 26th

1868, or nearly nine months after the Despatch reached him, if he was at that time resident at Pondicherry, Mr Montclar again addressed the Secretary of State through the Government, and his Memorial is now before the Revenue Department. In it he professes to bring forward "new circumstances

circumstances ...
which have never
been considered.

4. Mr Montclar's
Memorial is
couched in such
~~words as to make out~~
indefinite language
that it is difficult
to understand the pre-
cise nature of his
demands. But it ap-
pears that he lays
claim to compensa-
tion for 15 Acres of land
which were occupied by
Govt for a Canal, out of
his holding of 90 acres
in the District of Rajahmundry.

It

5. It is undoubtedly
the case that some of
Mons Montclar's land
was taken up for ir-
rigation channel. Mr
Purvis, the then Collector
of Rajahmundry, ad-
mitted this in para 10
of his letter to the Board
of Revenue, dated 16th
August 1858, stating
that Mons Montclar was
"entitled to a remission
of the assessment as soon
as the exact extent taken
could be ascertained."
But Mons Montclar ap-
pears to have subsequently
sunk his minor claim
to reimbursement for
land occupied by
Government, in his
demand for a loan

or

or for compensation
on account of the loss
occasioned to him by
the breach of the Anicut.

6. On receipt of the
Memorial now under
consideration, the Govern-
ment in an Order dated
July 6th 1868 resolved
to call upon the Collector
of the Godavery District
for a report on the cause
adopted, with reference
to Mr. Montclair's claim
for compensation for the
15 acres alleged by him
to have been occupied
for a channel.

7. On October 12th 1868
the Collector replied to the
effect that land belonging
to Mons. Montclar to the
extent of A 11. C. 91 and
aforesaid
assessed at Rs. 49-10-8
had been occupied by
the Dept. Pub. Works, and
that Rs. 22-12-9, viz.
mirremitted thrice for
three years on a portion
of the land so occupied
was still due to Mons.
Montclar. He further
stated in para 4 of his
letter, that, at the time
Mons. Montclar's land
was taken up, the Govt.
never dreamt of giving
any compensation in such
cases beyond remission
of the annual assessment
because the ryot was
not then considered to be
the actual proprietor of the soil
8. With regard to
para 4 of the Collector's
letter the Govt. on December
22nd

22nd 1868 referred to the Board of Revenue for their opinion, and the reply dated February 5th 1869 is now under consideration.

While admitting the fact that lands were formerly taken up without compensation being asked or granted, the Board record a decided opinion that Mons. Montclar is entitled to "compensation at the selling price of land at the time his lands were assumed."

9. The questions, therefore, which await the decision of Govt. are:-

I Is Mons. Montclar entitled to the actual price, over and above the assessment of A.R. C. 9/9 land held by him and assumed

how far back would this be?

assumed for Govt. purposes in 1857.

2/ If so, according to what rate should the price be assessed.

The first question is a very broad one and can be decided in accordance with precedent. For the settlement of the second it might be advisable to refer to the Collector of the Godavery District.

10. Mons. Montclar's claims are generally characterized by indecision and founded on exaggerated estimates.

He has moreover been dilatory in preferring the memorial now under consideration.

But the Government may be disposed to accord some indulgence to a foreigner whose enterprising spirit

spirit and the beneficial example set by him in constructing the first water wheel in that part of the country, gained for him in 1868 the unqualified praise of the Collector of Rajahmundry, and who undisputably suffered loss owing to the breach of a Govt Ancient

11-\ Pending case

Mrs. Montclair

appears to be entitled

to Rs. 22-12-9. on account of unsettled

Claim.

Dec.

Pittfall

× Vide Mr. Burris' letter of 16th August 1858

I have never been an advocate for granting money compensation in the loose general way which of late years has come into fashion. I have thought that part of land taken used to the occupants, or lands by the road, canal, or irrigation Channel sub through them and in value particularly, where compensation was not given & compensation was demanded even - But, as the practice has set in, and is pretty well established, I submit the Board's views must be accepted. Still, submitted as their views is in many exceptional terms, there may be instances where the Board would be inclined to come in other directions of some limited of a thousand pounds of right to compensation be just - defined as the Board but I see may soon have to fix for data on which to calculate compensation for land occupied fifty years back - the older the claim the greater the

difficulty in equitably adjusting it would therefore resolve itself to admit - to discussion any demand for compensation for land now under water, we have arisen 12 years ago - that is 12 years prior to the present date - State 12 years as the limit - which would have prevailed under the old law of limitations - under the present law, the period would be very much shorter - As regards Montclair's present claim, evidently are although it has been made the value of land (11 A 7 C) when the Collector has decided to take possession of it the order of Board specifies the land taken for the road - Should be deducted to subsist Court that be deducted to subsist - but I forget the date of the amount taken on which the order was passed - I see Mr. Montclair also order for payment of unsettled balance in his favor 1.4.60.

I agree with Mr Phillips.

A.J.M.

James A.

Revenue Dpsrt.t 9.

No. 1061.

Proceedings of the Madras Government
under date the 19th April 1869
Read the following Ro.
of the 13th of Revl.

Recommending the grant of compensation for Hon. Montelair's land in Godavery Dist.t taken up for Public Works in 1854 at selling price of land at that time.

(M.E. 5 Feb.y/69 No. 802)

1. With reference to the Proceedings of the 13th of Revl. dated February 5th 1869. the Govt. resolve to lay down the following rules regarding the assumption for Govt. purposes of land held by private individuals.

(1). In each case the total area of land to be assumed should be calculated and the assessment on it remitted as soon as possible after occupation.

Ro

c/ Offg/69 28 R.C. 8/4/69.

(2). his claim for the selling price of such land the origin of which arose more than twelve years before the date of its preferment will be entertained subject to this limitation, the Govt. reserve to themselves the right of deciding on each particular claim which may be presented.

2. In Bros: Montclairs case, the Govt resolved to grant to him compensation for A.H.C.71 according to the selling price of land in 1857. The Collector of the Godavery Dist. will be good enough to ascertain this as accurately as possible, and to submit a brief sketch of the data on which his calculation is based.

3. The Collector is also directed to transmit to Mr: Montclair the sum of 18 22-12-9 which is

is apparently still due to him as an unadjusted balance in his favor.

HW.

12 Copies to the Bd of Rev Decpd 20
1 Copy — Coll of the Godavery Dist
6 Copies — Secty Govt

25
1

Sd Tickell

Reported to England
D/22d April No 17 of 1869
Mis

s: 8/4/69 as