Secrt. I (i)-I—10,006—7-10-70.

(1) Number of pages 20.

(2) Date of repair 26.12.72

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Revenue DEPARTMENT

G.O. No. / B.P. No.	846	Press / Mis.
Dated	27. 2. 1877	197

Not to be folded or roughly handled

846
1

Proceedings of the Madras Government, Revenue Department,
27th February 1877.

Read again G.O., dated 3rd February 1877, No. 503.

No. 833. Read also the following letter from ERNEST BARCLAY, Esq., Government Solicitor, Madras, to the Hon. D. F. CARMICHAEL, Secretary to Government, Revenue Department, dated Madras, 15th February 1877, No. 99.

I HAVE the honor to acknowledge receipt of the Order of Government, dated 3rd February 1877, No. 503, Revenue Department, requesting the Acting Advocate-General's opinion as to the legality of inserting the conditions proposed by the Board of Revenue in the terms of the sale of land under the Waste Land Rules without the sanction of the Secretary of State.

2. I submitted the matter for the consideration of the Acting Advocate-General, and I now forward, herewith, a copy of his opinion.

OPINION.

I THINK it better not to delay my opinion until I get the Waste Land Rules, which were not sent to me, as the matter seems to be rather pressing.

It appears to me that there is no harm in inserting the condition mentioned in paragraph 3 of the letter of the Collector of Malabar, dated the 5th January 1877, No. 1. If the insertion of such condition be hereafter sanctioned by the Secretary of State that will give the same authority to the act of the Government as if they had express prior authority; if not so sanctioned, I presume the Government would not desire to insert, or if inserted, to insist upon such a condition. The rule of law is, I believe, applicable to such a case which declares that a subsequent ratification by the principal of the act of the agent is equivalent to a prior authority given to the agent. Such ratification may be given at any time by the Secretary of State and the condition would be enforced.

MADRAS,
15*th February* 1877.

(Signed) P. O'SULLIVAN,
Acting Advocate-General.

(True Copy.)

(Signed) ERNEST BARCLAY,
Government Solicitor.

No. 834. ORDER THEREON, 27th February 1877, No. 846.

Miscellaneous.

HIS GRACE the Governor in Council considers it desirable to obtain, prior to any sale, the sanction of the Secretary of State, through the Government of India, to the insertion of conditions securing the State's rights to the minerals in lands sold under the Waste Land Rules in the Wynaad Taluk, pending the final settlement of the questions that have arisen, and which are now before the Government of India, in relation to the State's claims to minerals in proprietary and other lands. The Collector of Malabar will postpone the sale of the portions of land applied for by Captain Cox pending a reply to this reference.

Proceedings of the Madras Government, Revenue Department,
27th February 1877.

Ordered that the following letter be despatched to the Home Government, through the Government of India.

(Here enter letter No. 847, dated 27th February 1877.)

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
,, the Collector of Malabar.
,, the Government Solicitor.

Exd. T. D. Ryan.

23/7/88 C.

5-8-19

Gobt. of [1877] Madras.

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated February, 27th.

Read

Ans.

G.O., 27th February 1877, No. 846.

Sale of land in Malabar District—Directing Collector of Malabar to postpone — under Waste Land Rules, to Captain Cox, pending final settlement of the question.

FEBRUARY.
Nos. 833-834.

No. 99.

1846
3

Madras, 15th February 1877.

From

Ernest Barclay
Government Solicitor
Madras,

To

The Honorable D. F. Carmichael
Secretary to Government,
Revenue Department,
Fort St. George,

Sir,

1. I have the honor to acknowledge receipt of the Order of Government dated 3rd February 1877, No. 563, Revenue Department, requesting the Acting Advocate General's opinion as to the legality of inserting the conditions proposed by the Board of Revenue in the terms of the sale of land under the Waste land rules without the sanction of the Secretary of State.

2. I submitted the matter for the consideration of the Acting Advocate General, and I now forward herewith a copy of his opinion.—

I have the honor to be,
Sir,
Your most Obedient Servant,

Ernest Barclay
Government Solicitor.—

Opinion.

V 846/3

I think it better not to delay any opinion until I get the Waste Land Rules which were not sent to me as the matter seems to be rather pressing.-

It appears to me that there is no harm in inserting the condition mentioned in Paragraph 3 of the Letter of the Collector of Malabar dated the 5th January 1877 No 1- If the insertion of such condition be hereafter sanctioned by the Secretary of State that will give the same authority to the act of the Government as if they had express prior authority. if not so sanctioned, I presume the Government would not desire to insert or if inserted to insist upon such a condition. The rule of law is I believe applicable to such a case which declares that a subsequent ratification by the principal of the act of the Agent is equivalent to a prior authority given to the Agent- such ratification may be given at any time by the Secretary of State and the Condition would be enforced.

/Signed/ P. O'Sullivan
Offg Advocate General

Madras
15th Feby 1877.-

/True Copy/
Ernest Wakeley
Government Solicitor.

Read 16th Feby 1877

Read 15th Feby 1877

Letter from the Government Solicitor
Madras
Dated 15th Feby 1877
Forwarding copy of the opinion of the Advocate General regarding the Waste Land Rules

Ans. 19th Feby 1877

Ans. 19th Feby 1877
Letter to the Government Solicitor
Madras
Forwarding copy of the opinion of the Advocate General regarding the Waste Land Rules

Read 27-2-77 No. 846

5
No 8469 of 27-2-77.

Memo

In accordance with the terms of this Treaty the Govt., the question of the legality of a sale, to which a condition is attached not provided for under the existing Rules, was referred for opinion to the Advr. Genl. to explain. That he sees no objection to the insertion of the condition, provided, it is, subsequently, ratified by the Secy of State; - if not, it could not be enforced.

Others are requested

V
16.2.77

Let follow the advice of the Advoc. Genl & request for Ratification

Bill shall ask Board of Agriculture Industry General Commissr & Sell on Conditions

Further Read, that the Secy of State will not consent any alteration without his sanction having previously been obtained from the Govt of India

R.

I think we must get the Secy of States previous sanction

MK 17/2

23/2/77

Enclosure in letter from the Government of Bengal to the Secretary to the Government of India, Revenue Department, No. 1309 I/1/4, dated Fort William, the 15th February 1877.

Revd 13/2/77

Ans 27-2-77 vide Pub

Sales under
Land Rules
Lyall

N° 1209/77

f.o 27-2-77 N° 846.

C. 17/2/77 D. 22/2/77. R.C. 21/2/77 R-26.

N° 846 of 27-2-77

Read letter from the Govt.
of Bihar — d. 15th Feby 77, N° 99
(Jamui) Qub
9

Read again f.o. 3rd Feby 77 N° 585

Order

His Grace the Govt.-in-Council
considers it desirable to
obtain, prior to any sale, the
sanction of the Govt. of India, to
the insertion of conditions
securing the State's rights
to the minerals in lands
sold under the Waste Land
Rules in the Lyallpur Tehsil,
pending the final settlement
of the questions that have
arisen, & which are now
before the Govt. of India, in
relation to the State's claims
to minerals, in prospected
and New lands —

the Collector of Malabar
with reference to the sale
of the fourteen pieces of land
applied for by Capt. Cox
pending a reply to this
reference -

Ordered that the following
letter be despatched to
the Board of Trade (Mr. Secretary Lis
(Mr. Secretary Lister) / Pol. letter No 847 of 27-2-77.

27/
2.3.77

"To the Bd of Revenue 9-3-77"
" The Collr of Malabar "
" The Govt Solicitor "

Draft Order

Certificate

Check Sheet

839—54

R26