

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 908

Press
Mis.242-43.
Dated 20-6-1870 M.Not to be folded or roughly handled

*Proceedings of the Madras Government, Revenue Department,
20th June 1870.*

No. 242. Read the following Proceedings of the Board of Revenue, dated 10th May 1870, No. 3,142:—

Read again Board's Proceedings, dated 12th March 1864, No. 1,529.

Read also the following letter from C. N. POCHIN, Esq., Collector of Salem, to the Acting Secretary to the Board of Revenue, dated on circuit at Bodinaikamputti, 18th March 1870, No. 52.

I HAVE the honour to submit, for the orders of the Board of Revenue, the enclosed copy of a letter from the Consulting Engineer for Railways, dated the 18th ultimo, No. 118, giving cover to a letter from the Agent and Manager of the Madras Railway Company, demurring to the payment of Rupees 3,630-3-2, being the assessment due on account of lands taken up for the Railway under Class C. from Fusly 1265 to 1272.

2. Mr. Elwin's ground of objection is, that the claim is barred by Statute of Limitation. Without, however, questioning the propriety of the objection on the part of Mr. Elwin to pay the amount which is justly due to Government, I must remark that he is mistaken in supposing that the claim is barred by Statute of Limitation. The claim is for assessment up to Fusly 1272, and an application for the same was submitted in the shape of a statement to the Board with letter, No. 226, of the 19th December 1863. This is embodied in the Board's printed Proceedings of the 12th March 1864, No. 1,529. The Board in these Proceedings considered that an application of the kind was unnecessary, and that, as the orders of Government sanctioning the compensation were communicated to the Consulting Engineer, it was for that officer to effect the necessary adjustment in communication with the Railway authorities. In his letter to Board of the 11th May 1864, No. 111, the Consulting Engineer informed the Board that he had that day called on the Agent and Manager to remit the amount. Granting even that an application was necessary to be made to the Railway authorities for the assessment, it will be seen that in this case it was made within the time prescribed by the Statute of Limitation. Subsequent to the Consulting Engineer's letter to the Board above referred to, there has been some correspondence between the Agent, the Consulting Engineer, and my Office, relative to some of the lands entered in the statement which the Company wished to throw up. A revised statement was finally submitted to the Consulting Engineer with my letter, No. 13, of the 22nd December last. A copy of the whole correspondence is herewith submitted.

3. In conclusion, I may only mention that it would be dangerous to the interests of Government to allow the Railway Company, or any Company similarly situated, to take advantage of Statute of Limitation in paying what is justly due to Government.

ENCLOSURE No. 1.

From the Consulting Engineer for Railways, Madras, to the Collector of Salem, dated 18th February 1870, No. 118.

REFERRING to your letter, No. 13, of the 22nd December 1869, I have the honour to forward, for your information, copy of a communication received from the Agent of the Madras Railway Company.

No. 84, of the 17th February 1870.

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2. You will observe that Mr. Elwin is of opinion that the claim against the Madras Railway Company for assessment due on lands taken up under Class C., in the district of Salem up to Fusly 1272, is barred by the Statute of Limitation.

ENCLOSURE No. 2.

From R. B. ELWIN, Esq., Agent and Manager of the Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 17th February 1870, No. 84.

In acknowledging the receipt of your letter of the 27th ultimo, No. 38, I have the honour to return the revised statement forwarded to you by the Collector of Salem, requesting you to recover from this Company the amount of Rupees 3,630-3-2, being the assessment alleged to be due on the lands taken up under Class C. in the district of Salem up to Fusly 1272.

2. On a reference to the Calendar I find that Fusly 1272 commenced on the 1st of July 1862, so that, under the provision of Act II. of 1860, the Company, as it appears to me, cannot be held liable to the payment of the amount claimed.

3. You will doubtless remember that this subject was discussed at the Meeting of the Stores Committee held on Monday last, when I explained that it would be manifestly unfair to debit the Company's accounts for the year 1870 with assessments which accrued and became payable during Fuslies 1261 to 1272.

ENCLOSURE No. 3.

From the Collector of Salem, to the Consulting Engineer for Railways, Madras, dated Salem, 22nd December 1869, No. 13.

With reference to your Office letter dated 23rd December 1864, I have the honour to submit a revised statement showing the amount recoverable from the Railway Company up to Fusly 1272 on account of lands taken up under Class C. in this district.

2. The statement received with the above letter has been found correct for the most part. Such of the items in it in which there was a difference, I have entered with red ink in the revised statement.

3. I regret the delay that has occurred in the submission of the revised statement. The Head Clerk had quietly placed the bundle on one side, and forgot all about the matter.

ENCLOSURE No. 4.

From the Consulting Engineer for Railways, to the Collector of Salem, No. 403.

With reference to your letters to the Secretary to the Board of Revenue, No. 226, dated 19th December 1863, and No. 79, dated 3rd May 1864, and the Proceedings of the Board of Revenue of the 12th March 1864, No. 1,529,*

*To Agent, No. 376, 11th May 1864.
From do. " 790, 29th September.
To do. " 772, 21st December.
From do. " 1,080, 19th "

I have the honour to forward the correspondence noted in the margin, together with the statement alluded to in the Agent and Manager's

letter, No. 1,080, and shall feel obliged by your having it examined, and by your submitting a revised statement (to be returned) of the amount recoverable from the Railway Company if the one now forwarded be found correct.

ENCLOSURE No. 5.

From the Consulting Engineer for Railways, to the Agent and Manager of the Madras Railway Company, dated Madras, 11th May 1864, No. 376.

I HAVE the honour to forward two statements, in original, showing the lands taken up under Class C. in the district of Salem on the South-West Line and Bangalore Branch, and the assessment or rent payable by the Railway Company from Fusly 1265 to Fusly 1272.

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2. From the statement appended it will be seen that a sum of Rupees 5,949-15-1 has to be paid by the Railway Company, and that in future they would have to pay Rupees 653-5-6. I request you will be good enough to remit to the Collector of Salem the sum of Rupees 5,949-15-1 at an early date, charging the same to the districts on which the lands are situated.

From the Agent and Manager of the Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 20th September 1864, No. 790.

With reference to your letters, Nos. 376 and 753, dated respectively the 11th May and 16th September 1864, respecting assessment alleged to be due by the Company for lands occupied in the district of Salem, I have the honour to submit, for the information of Government, the following particulars which I have received from the Chief Engineer:—

"The statements have been sent to the Resident Engineers whom they concern for report, "1st, as to whether the lands are actually occupied; and, 2nd, as to whether they may not be "dispensed with in future. A Cheque for the amount named in the above letter has been "withheld, pending the receipt of replies."

From the Consulting Engineer for Railways, to the Agent and Manager of the Madras Railway Company, dated Madras, 21st September 1864, No. 772.

ADVERTING to the extract from the Chief Engineer's communication quoted in your letter of the 20th instant, No. 790, I have the honour to remark that it is essential the assessment should be paid with as little delay as possible, and the Resident Engineer should be requested to expedite his reply to the first question put to him by the Chief Engineer, inasmuch as upwards of four months have elapsed since my first letter on the subject was written.

From the Agent and Manager of the Madras Railway Company, to the Consulting Engineer for Railways, dated Madras, 19th December 1864, No. 1,080.

With reference to your letter of the 11th May last, No. 376, forwarding two statements, in original, showing the lands taken up under Class C. in the district of Salem on the South-West Line and Bangalore Branch, and the assessment payable by the Railway Company from Fusly 1265 to Fusly 1272, I have the honour to enclose a statement prepared by the Chief Engineer, setting forth the land we are prepared to give up in the Salem District.

2. Mr. Smart, in writing to me on the subject, observes: "I find on referring to the "lists forwarded by the Collector of Salem that some of the land is incorrectly placed under "Class C. I have noted in the Remark-column of my list the land I refer to.

"Be good enough to request the Consulting Engineer to forward my list to the Collector of "Salem, so that a revised statement may be submitted for payment.

3. I return the original statements as requested.

SUBMITTED for the orders of Government.

2. The Collector of Salem forwards certain correspondence, from which it appears that a Government claim for assessment, (amounting to Rupees 3,630-3-2,) on lands taken up by the Railway Company has been objected to by the Agent of the Company on the ground that it is barred by the Statute of Limitation. The circumstances of the case are as follow:—

3. The claim is for assessment on lands taken up by the Company from Fusly 1265 to Fusly 1272, per-centago chargeable on the sum paid for the acquisition of

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the lands, and compensation for loss of produce, etc. An application for Rupees 5,950 on this account, in the form of a statement, was submitted to the Board by the Collector in a letter dated 19th December 1863.

4. This statement was communicated by the Board to the Consulting Engineer for Railways, with an expression of their opinion that, as the sanction of Government for the proposed compensation had been communicated direct to him, the submission of the statement to the Board was needless, and he would himself effect the adjustment of the sums recoverable from the Railway Company.

5. In reply, the Consulting Engineer* observed that the usual course for the recovery of rent of lands transferred to the Railway was for the Revenue officers to present bills periodically and obtain payment, and that this should have been done in the present case.

* Letter, dated 11th May 1864, No. 111.

6. He stated that he had, however, called on the Agent and Manager of the Company to pay the amount due to the Collector. A copy of this application is now submitted, and the date of it is the same as that of the Consulting Engineer's letter to the Board, viz., the 11th May 1864.

7. Some further correspondence ensued between the Agent, the Consulting Engineer, and the Collector, regarding some lands included in the statement which the Company wished to give up, and finally, at Mr. Elwin's request made in a letter dated the 21st September 1864, the Consulting Engineer wrote to the Collector, calling for a revised statement. His letter was dated 23rd December 1864, but it remained unnoticed in Mr. Pochin's Office until the 22nd December 1869, (or nearly five years,) when the required statement was forwarded.

8. The inexcusable delay which took place in the Collector's Office between December 1864 and December 1869 would have brought the Statute of Limitation to bear against the demand, were it not that Section 17 of Act XIV. of 1859 provides that the Act shall not apply to any public claim. As it is, the Board believe that the Company can be compelled to pay the debt which their Agent has admitted to be due.

9. In his letter to the Board Mr. Pochin makes no reference to the delay, but in his letter of the 22nd December 1869 to the Consulting Engineer, he says: "I regret the delay that has occurred in the submission of the revised statement. The Head Clerk had quietly placed the bundle on one side, and forgot all about the matter." The Board are constrained to observe that this explanation is not creditable to the Office or its head.

No. 243.

ORDER THEREON, 20th June 1870, No. 908.

Miscellaneous.

THE Government request that the Consulting Engineer for Railways will convey to the Agent and Manager,

Madras Railway, the expression of their concurrence in the opinion given by the

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Board in paragraph 8 of their Proceedings as to the continuing liability of the Company for the sum of money in question. The result of this communication should be at once reported to Government.

(True Extract.)

(Signed) R. S. ELLIS,
Chief Secretary.

To the Consulting Engineer for Railways.
„ the Board of Revenue.
„ the Public Works Department.

Exd. E. C. Shunker.

R.R.

Memo: on
P. 1496
C

The case in which
the orders of foot are
repeated is briefly stated
in the Bd's Proceedings.
It is submitted that
the Ry Co may be called
upon to pay the
amount due through
the P.W.D and that
the Bds observations
upon the unpardonable
delay which has taken
place in the Colt. office
may be endorsed by foot

MS



R.
G.
S. D. S.
A. A.
Claims of the
Crown are not
affected by
 lapse of time.

6001. of 1870	
REVENUE.	
THE CONSULING ENGINEER FOR RAILWAYS.	
Dated June, 20th.	Recd. Co., Secy.
Recd.	Ent.
G. O., 20th June 18th, No. 908.	
JUNE Nos. 212, 222.	
Assessment on land taken up for R. W. Co. in Salem District. — Passing orders on the liability of the Company to the payment of the sum.	

Memorandum
Presented by
Railway Comptroller
certain land in
Salem Dist.

11/2/40

On a

Under the
Railway Comptroller's
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Rev. Department

N. 908.

Proceedings of the Madras Government
Under date the 23rd June 1870.

Read the following
Proceedings of the Board
of Revenue.

Subj. for orders, correspond-
ence regarding refusal of
Railway Company to pay arrears
amounting to Rs. 3,530-3-2, due
from Fyuly 1265 to 1272, on ac-
count of lands in Salem Dist.
taken up for Railway purposes,
on ground that claim is barred
by Statute of Limitation.

(H.C. 10th May/70 Rs. 3142)

The Government
request that the Com-
muting Engineer for
Railways will convey
to the Agent and Manager
Madras

Madras Railway, the
expression of their concu-
rence in the opinion given
by the Board in para 8
of their Proceedings, as to
the continuing liability of
the Company for the sum
of money in question. The
result of this communication
should be at once reported
to Government.

W. H.

3 To the Consulting Eng^r for Railway Dept 27
14 ————— to the Secy
21 ————— to the Secy

W. H. Hall